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सं. 35] नई दिल्ली, अगस्त 25—अगस्त 31, 2013, शनिवार/भाद्र 3—भाद्र 9, 1935
No. 35] NEW DELHI, AUGUST 25—AUGUST 31, 2013, SATURDAY/BHADRA 3—BHADRA 9, 1935

भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय
(वित्तीय सेवाएं विभाग)

नई दिल्ली, 22 अगस्त, 2013

का.आ. 1827.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) और खंड 8 के उप-खंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा (3) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री वी. कानन (जन्म तिथि : 25-12-1954), कार्यपालक निदेशक, ओरियंटल बैंक ऑफ कामर्स को 1-1-2014 को या उसके बाद उनके द्वारा पदभार ग्रहण करने की तारीख से तथा 31-12-2014 तक अर्थात् उनके द्वारा अधिवर्षिता की आयु प्राप्त करने की तारीख तक अथवा अगले आदेशों तक, जो भी पहले हो, विजया बैंक के अध्यक्ष एवं प्रबंध निदेशक के रूप में नियुक्त करती है।

[फा. सं. 4/4/2012-बीओ-1]

विजय मल्होत्रा, अवर सचिव

MINISTRY OF FINANCE

(Department of Financial Services)

New Delhi, the 22nd August, 2013

S.O. 1827.—In exercise of the powers conferred by clause (a) of sub-section (3) of Section 9 of Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980, read with sub-clause (1) of clause 3 and sub-clause (1) of clause 8 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, hereby appoints Sh. V. Kannan (DoB : 25-12-1954), Executive Director, Oriental Bank of Commerce as Chairman and Managing Director, Vijaya Bank, from the date of his taking over the charge of the post on or after 1-1-2014 and up to 31-12-2014, i.e. the date of his superannuation or until further orders, whichever is earlier.

[F.No. 4/4/2012-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 22 अगस्त, 2013

का.आ. 1828.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) और खंड 8 के उप-खंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा (3) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्द्वारा, श्री सुरेश एन. पटेल (जन्म तिथि : 25-12-1957), महाप्रबंधक, देना बैंक को 1-1-2014 को या उसके बाद उनके द्वारा पदभार ग्रहण करने की तारीख से तथा 31-12-2017 तक अर्थात् उनके द्वारा अधिवर्षिता की आयु प्राप्त करने की तारीख तक अथवा अगले आदेशों तक, जो भी पहले हो, ओरियंटल बैंक ऑफ कामर्स के कार्यपालक निदेशक के रूप में नियुक्त करती है।

[फा. सं. 4/5/2012-बीओ-1]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 22nd August, 2013

S.O. 1828.—In exercise of the powers conferred by clause (a) of sub-section (3) of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980, read with sub-clause (1) of clause 3 and sub-clause (1) of clause 8 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, hereby appoints Shri Suresh N. Patel (DoB : 25-12-1957), General Manager, Dena Bank as Executive Director, Oriental Bank of Commerce, with effect from the date of his taking over charge of the post on or after 1-1-2014 and up to 31-12-2017, i.e. the date of his attaining the age of superannuation or until further orders, whichever is earlier.

[F.No. 4/5/2012-BO-I]

VIJAY MALHOTRA, Under Secy.

(राजस्व विभाग)

(केन्द्रीय प्रत्यक्ष कर बोर्ड)

नई दिल्ली, 22 अगस्त, 2013

का.आ. 1829.—सर्वसाधारण की जानकारी के लिए एतद्द्वारा यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा आयकर नियमावली, 1962 (उक्त नियमावली) के नियम 5ग और 5ड के साथ पठित आयकर अधिनियम, 1961 (उक्त अधिनियम) की धारा 35 की उप-धारा (1) के खंड (ii) के प्रयोजनार्थ कर निर्धारण वर्ष 1-4-2012 से आगे संगठन दि इंडियन इन्स्टीट्यूट ऑफ टेक्नॉलाजी, गांधी नगर, (पैन-एए टीआई 7352 एम) को निम्नलिखित शर्तों के अधीन 'विश्वविद्यालय, कॉलेज या अन्य संस्था' की श्रेणी में अनुमोदित किया गया है, अर्थात् :—

- (i) अनुमोदित संगठन को प्रदत्त राशि का उपयोग वैज्ञानिक अनुसंधान के लिए किया जाएगा;

- (ii) अनुमोदित संगठन अपने संकाय सदस्यों अथवा अपने नामांकित छात्रों के माध्यम से वैज्ञानिक अनुसंधान करेगा;

- (iii) अनुमोदित संगठन वैज्ञानिक अनुसंधान के लिए इसके द्वारा प्राप्त राशि के संबंध में अलग खाता बही रखेगा, जिसमें अनुसंधान करने के लिए प्रयुक्त राशि दर्शाई गई हो, उक्त अधिनियम की धारा 288 की उप-धारा (2) के स्पष्टीकरण में यथा परिभाषित किसी लेखाकार से अपनी खाता-बही की लेखा-परीक्षा कराएगा और उक्त अधिनियम की धारा 139 की उप-धारा (1) के अंतर्गत आय विवरणी प्रस्तुत करने की नियत तिथि तक ऐसे लेखाकार द्वारा विधिवत सत्यापित एवं हस्ताक्षरित लेखा-परीक्षा रिपोर्ट मामले में क्षेत्राधिकार रखने वाले आयकर आयुक्त अथवा आयकर निदेशक को प्रस्तुत करेगा;

- (iv) अनुमोदित संगठन संबंधित विभागों के संबंध में वैज्ञानिक अनुसंधान के लिए प्राप्त दान तथा प्रयुक्त राशि का अलग विवरण रखेगा और उपर्युक्त लेखा-परीक्षा रिपोर्ट के साथ लेखा-परीक्षक द्वारा विधिवत सत्यापित ऐसे विवरण की प्रति प्रस्तुत करेगा।

2. केंद्र सरकार यह अनुमोदन वापस ले लेगी यदि अनुमोदित संगठन :—

- (क) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित लेखा बही नहीं रखेगा; अथवा
- (ख) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित अपनी लेखा-परीक्षा रिपोर्ट प्रस्तुत नहीं करेगा; अथवा
- (ग) पैराग्राफ 1 के उप-पैराग्राफ (iv) में उल्लिखित वैज्ञानिक अनुसंधान के लिए प्राप्त एवं प्रयुक्त दान का अपना विवरण प्रस्तुत नहीं करेगा; अथवा
- (घ) अपना अनुसंधान कार्य करना बंद कर देगा अथवा इसके अनुसंधान कार्य को ठीक नहीं पाया जाएगा; अथवा
- (ड.) उक्त नियमावली के नियम 5ग और 5ड के साथ पठित उक्त अधिनियम की धारा 35 की उप-धारा (1) के खंड (ii) के प्रावधानों के अनुरूप नहीं होगा तथा उनका पालन नहीं करेगा।

[अधिसूचना सं. 65/2013/फा.सं. 203/38/2012-आ.क.नि-II]

ऋचा रस्तोगी, अवर सचिव (आ.क.नि-II)

(Department of Revenue)

(Central Board of Direct Taxes)

New Delhi, the 22nd August, 2013

S.O. 1829.—It is hereby notified for general information that "The Indian Institute of Technology, Gandhi Nagar, (PAN-AAATI7352M) has been approved by the Central Government for the purpose of clause (ii) of

sub-section (1) of Section 35 of the Income-tax Act, 1961 (said Act), read with Rules 5C and 5E of the Income-tax Rules, 1962 (said Rules), from 01.04.2012 onwards in the category of 'University, College or Other Institution, subject to the following conditions, namely :—

- (i) The sums paid to the approved organization shall be utilized for scientific research;
- (ii) The approved organization shall carry out scientific research through its faculty members or its enrolled students;
- (iii) The approved organization shall maintain separate books of accounts in respect of the sums received by it for scientific research, reflect therein the amounts used for carrying out research, get such books audited by an accountant as defined in the explanation to sub-section (2) of Section 288 of the said Act and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (1) of Section 139 of the said Act;
- (iv) The approved organization shall maintain a separate statement of donations received and amounts applied for scientific research in respect

of concerned Departments and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to above.

2. The Central Government shall withdraw the approval if the approved organization :—

- (f) fails to maintain separate books of accounts referred to in sub-paragraph (iii) of paragraph 1; or
- (g) fails to furnish its audit report referred to in sub-paragraph (iii) of paragraph 1; or
- (h) fails to furnish its statement of the donations received and sums applied for scientific research referred to in sub-paragraph (iv) of paragraph 1; or
- (i) ceases to carry on its research activities or its research activities are not found to be genuine; or
- (j) ceases to conform to and comply with the provisions of clause (ii) of sub-section (1) of Section 35 of the said Act read with rules 5C and 5E of the said Rules.

[Notification No. 65/2013/F.No. 203/38/2012-ITA-II]

RICHARASTOGI, Under Secy. (ITA-II)

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

(भारतीय मानक ब्यूरो)

नई दिल्ली, 31 जुलाई, 2013

का.आ. 1830.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिए गए मानक (कों) में संशोधन किया गया/किये गये हैं।

अनुसूची

क्रम सं.	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आई एस 8112: 2013	संशोधन संख्या 1, जुलाई, 2013	31 जुलाई, 2013

इस संशोधन की प्रति भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह ज़फर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुंबई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा कोची में बिक्री हेतु उपलब्ध हैं।

[संदर्भ सीईडी/राजपत्र]

सी. आर. राजेन्द्रा, वैज्ञानिक 'एफ' एवं प्रमुख (सिविल इंजीनियरी)

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION**(Department of Consumer Affairs)****(BUREAU OF INDIAN STANDARDS)**

New Delhi, the 31st July, 2013

S.O. 1830.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendment to the Indian Standard, particulars of which are given in the Schedule below, has been issued :

SCHEDULE

Sl.No.	No. and Year of the Indian Standards	No. and year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 8112 : 2013	Amendment No. 1, July, 2013	31st July, 2013

Copy of this amendment is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi- 110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Kochi.

[Ref. CED/Gazette]

C. R. RAJENDRA, Scientist 'F' & Head (Civil Engg.)

नई दिल्ली, 2 अगस्त, 2013

का.आ. 1831.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 4 के उप विनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :—

अनुसूची

क्रम संख्या	लाइसेंस संख्या	स्वीकृति करने की तिथि/वर्ष/माह	लाइसेंसधारी का नाम एवं पता	भारतीय मानक का शीर्षक	भामा सं./भाग/खण्ड/वर्ष
(1)	(2)	(3)	(4)	(5)	(6)
1.	3941873	17-04-2013	बायोकॉन इलेक्ट्रीकल्स इंडिया, तल मंजिल, 12, वी के इण्डस्ट्रीयल कंप्लेक्स, के टी इण्डस्ट्रीयल पार्क 2, बिलाल पाडा, विलेज वालीव, वसई पूर्व, जिला : ठाणे-401208, महाराष्ट्र	विद्युत प्रयोजनों के लिए दाब सुग्राही आसंजनशील विद्युतरोधी टेप — भाग 3 : अलग-अलग सामग्रियों की अपेक्षाएं खण्ड 1 : अ तापमापी आसंजनशील वाले सुघटियत पॉलीविनाइलक्लोराइड टेप	भा.मा. 7809 : भाग 3 : खण्ड 1 : 1986
2.	3944071	02-05-2013	अरिहंत इलेक्ट्रीकल कंपनी, 146/1169, मोतीलाल नगर सं. 1, रोड सं. 3, साईबाबा मंदिर के नजदीक, गोरेगांव - पश्चिम, मुंबई-400104	250 वोल्टता और 16 एम्पीअर्स तक रेटित धारा के प्लगस और सॉकेट	भा.मा. 1293 : 2005

(1)	(2)	(3)	(4)	(5)	(6)
3.	3944677	03-05-2013	ओसविन इण्डस्ट्रीज, गाला सं. 27/28, पहला माला, पटेल इण्ड. इस्टेट, न्यू विंग, दहिसर पुलिस स्टेशन के सामने, एस वी रोड, दहिसर पूर्व, मुंबई-400068	250 वोल्टता और 16 एम्पीअर्स तक रेटित धारा के प्लगस और सॉकेट	भा.मा. 1293 : 2005
4.	3946580	03-05-2013	फलेमपैक, 12, धनलक्ष्मी इण्डस्ट्रीयल इस्टेट, विलेज - नवघर, तालुका - बसीन, वसई पूर्व, ठाणे-401210 महाराष्ट्र	एक्सप्लोसिव ऐटमॉस्फिअर्स भाग-1 फलेमप्रूफ इनक्लोजर 'डी' द्वारा उपस्कर संरक्षा	भा.मा./आईईसी 60079 : भाग-1 : 2007
5.	39445767	08-05-2013	ओसविन इण्डस्ट्रीज, गाला सं. 27/28, पहला माला, पटेल इण्ड. इस्टेट, न्यू विंग, दहिसर पुलिस स्टेशन के सामने, एस वी रोड, दहिसर पूर्व, मुंबई-400068	घरेलू और समान प्रयोजनों के लिए स्विचे	भा.मा. 3854 : 1997
6.	3948281	21-05-2013	यूनीवर्सल केबल्स लि., प्लॉट सं. एल-58 से एल-60 तक, वेरणा इण्ड. इस्टेट, वेरणा, सेलशेट, जिला : दक्षिण गोवा, गोवा-403722	निमज्जनी मोटर के लिए लपेटन तार — विशिष्ट — भाग 4 : पृथक तारों के लिए विशिष्ट — अनुभाग 1 : एचआर पीवीसी रोधित तार	भा.मा. 8783 भाग 4 : अनुभाग 1 : 1995
7.	3950773	28-05-2013	निशा प्रोडक्ट्स, 86, मेहता इण्डस्ट्रीयल इस्टेट, लिब्रटी गार्डन 'X' रोड सं. 3, मालाड पश्चिम, मुंबई-400064	घरेलू और समान प्रयोजनों के लिए स्विचे	भा.मा. 3854 : 1997
8.	3958385	19-06-2013	होमनीड अप्लायंसेस, शॉप सं. 10, गणेश कृपा, सी.एच.एस. प्लॉट सं. 23, सेक्टर 20, कोपरखैराने, नवी मुंबई-400709	बिजली के घरेलू खाद्य मिक्सर (द्रवीपरक और ग्राइंडर)	भा.मा. 4250 : 1980

[सं. के.प्र.वि./13:11]

ए. एस. जामखिंडीकर, वैज्ञानिक 'एफ' एवं प्रमुख (एम डी एम-III)

New Delhi, the 2nd August, 2013

S.O. 1831.—In pursuance of sub-regulation (5) of Regulation 4 of the Bureau of Indian Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedule :

SCHEDULE

Sl. No.	Licence No.	Grant Date	Name and Address (factory) of the Party	Product	IS No./Part/Sec./Year
(1)	(2)	(3)	(4)	(5)	(6)
1.	3941873	17-04-2013	Biocon Electricals India, Ground Floor, 12, VK Indl. Complex, KT Ind. Park 2, Bilal Pada, Village Valiv, Vasai East, Distt. Thane, Maharashtra-401208	Pessure sensitive adhesive insulating tapes for electrical purposes — Part 3 : requirements for individual materials — Section 1 : plasticized polyvinylchloride tapes with non-thermosetting adhesive	IS 7809 : Part 3 : Sec 1 : 1986
2.	3944071	02-05-2013	Arihant Electric Company, 146/1169, Motilal Nagar No. 1, Road No. 3, Near Saibaba Temple, Goregaon West, Mumbai-400104	Switches for domestic and similar purposes	IS 3854 : 1997
3.	3944677	03-05-2013	Oswin Industries, G No. 27/28, First Floor, Patel Industrial Estate, New Wing, Opp Dahisar Police Station, S.V. Road, Dahisar (E), Mumbai-400068	Plugs and socket outlets of 250 volts and rated current up to 16 amperes	IS 1293 : 2005
4.	3946580	03-05-2013	Flamepack, 12, Dhanlaxmi Industrial Estate, At Village Navghar, Taluka Bassein, Vasai (East) Thane-401210, Maharashtra	Explosive Atmospheres— Part 1 : Equipment Protection by Flameproof Enclosers “d”	IS/IEC 60079 : Part 1 : 2007
5.	39445767	08-05-2013	Oswin Industries, G No. 27/28, First Floor, Patel Industrial Estate, New Wing, Opp. Dahisar Police Station, S.V. Road, Dahisar (E), Mumbai-400068	Switches for domestice and similar purposes	IS 3854 : 1997
6.	3948281	21-05-2013	Universal Cables Ltd., Plot No. L-58 to L-60, Verna Indl. Estate, Verna, Salcete, South Goa, Goa-403722	Winding Wires for Submersible Motors — Specification—Part 4 : Specification for Individual Wires —Section 1 : HR PVC Insulated Wires	IS 8783 : Part 4 : Sec 1 : 1995
7.	3950773	28-05-2013	Nisha Products, 86, Mehta Indl. Estate, Liberty Garden X Road No. 3, Malad West, Mumbai-400064	Switches for domestice and similar purposes	IS 3854 : 1997

(1)	(2)	(3)	(4)	(5)	(6)
8.	3958385	19-06-2013	Homeneed Appliances, Shop No. 10, Ganesh Krupa, CHS Plot No. 23, Sector 20, Koperkhairne, Navi Mumbai-400709	Domestic electric food- mixers (liquidizes and grinders)	IS 4250 : 1980

[No. CMD/13 : 11]

A. S. JAMKHINDIKAR, Scientist 'F' & Head (MDM-III)

नई दिल्ली, 2 अगस्त, 2013

का.आ.1832.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 5 के उप विनियम (6) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे रद्द कर दिए गए हैं :—

अनुसूची

क्रम सं.	लाइसेंस संख्या	लाइसेंसधारी का नाम एवं पता	लाइसेंस के अंतर्गत वस्तु/प्रक्रम संबद्ध भारतीय मानक का शीर्षक	रद्द करने की तिथि
(1)	(2)	(3)	(4)	(5)
1.	1154436	प्रेम कंडक्टर्स प्रा. लि., सर्वे नं. 1078/2/2, विलेज नारोली, सीलवासा, जिला दादरा एण्ड नगर हवेली-396235	भा मा 398 भाग 2 1996 शिरोपरि प्रेषण प्रयोजनों के लिए एल्यूमिनियम चालक — भाग-2, एल्यूमिनियम चालक, जस्तीकृत और प्रबलित	05-06-2013
2.	1551547	प्रेम कंडक्टर्स प्रा. लि., सर्वे नं. 1078/2/2, विलेज नारोली, सीलवासा, जिला दादरा एण्ड नगर हवेली-396235	भा मा 398 भाग 4 1994 शिरोपरि प्रेषण प्रयोजनों के लिए एल्यूमिनियम चालक — भाग-4, एल्यूमिनियम मिश्रधातु लडदार चालक (एल्यूमिनियम सिलाकॉन टाइप)	05-06-2013
3.	2312938	प्रेम कंडक्टर्स प्रा. लि., सर्वे नं. 1078/2/2, विलेज नारोली, सीलवासा, जिला दादरा एण्ड नगर हवेली-396235	भा मा 398 भाग 5 1992 शिरोपरि प्रेषण प्रयोजनों के लिए एल्यूमिनियम चालक — भाग-5, अतिरिक्त उच्च वोल्टता 400 के और उससे अधिक के लिए एल्यूमिनियम चालक, जस्तीकृत और प्रबलित	05-06-2013
4.	7837797	भैरव इण्डस्ट्रीज, प्लॉट नं. 24/बी, गोल्डन इण्डस्ट्रीयल इस्टेट, सोमनाथ रोड, दाभेल, जिला दमन एण्ड दीव-396210	भा मा 3854 : 1997 घरेलू और समान प्रयोजनों के लिए स्विचे	09-04-2013
5.	7993714	हायड्रोडायन इंडिया प्रा. लि., बी 47, पैरामाउन्ट, न्यू लिंक रोड, अंधेरी (प), मुंबई-400053	भा मा 2148 : 2004 विद्युत उपकरणों हेतु ज्वालासह आवेष्टन	12-04-2013

[सं. के.प्र.वि./13 : 13]

ए. एस. जामखिंडीकर, वैज्ञानिक 'एफ' एवं प्रमुख (एम डी एम-III)

New Delhi, the 2nd August, 2013

S.O. 1832.—In pursuance of sub-regulation (6) of the Regulation 5 of the Bureau of Indian Standards (Certification) Regulations 1988, the Bureau of Indian Standards, hereby notifies that the licences particulars of which are given in the following schedule have been cancelled with effect from the date indicated against each :

SCHEDULE

Sl. No.	Licence No.	Name and Address of the licensee	Article/process with relevant Indian Standard covered by the Licence	Date of cancellation
(1)	(2)	(3)	(4)	(5)
1.	1154436	Prem Conductors Private Limited, Survey No. 1078/2/2, Village Naroli, Silvassa, Distt. : Dadra and Nagar Haveli-396235	IS 398 : Part 2 : 1996 aluminium conductors for overhead transmission purposes : Part 2 aluminium conductors, galvanized steel reinforced	05-06-2013
2.	1551547	Prem Conductors Private Limited, Survey No. 1078/2/2, Village Naroli, Silvassa, Distt. : Dadra and Nagar Haveli-396235	IS 398 : Part 4 : 1994 aluminium conductors for overhead transmission purposes : Part 4 aluminium alloy stranded conductors (aluminium magnesium silicon type)	05-06-2013
3.	2312938	Prem Conductors Private Limited, Survey No. 1078/2/2, Village Naroli, Silvassa, Distt. : Dadra and Nagar Haveli-396235	IS 398 : Part 5 : 1992 aluminium conductors for overhead transmission purposes : Part 5 aluminium conductors — galvanized steel reinforced for extra high voltage (400 kv and above)	05-06-2013
4.	7837797	Bhairav Industries, Plot No. 24/B, Golden Indl. Estate, Somnath Road, Dabhel Distt. : Daman Daman and Diu-396210	IS 3854 : 1997 switches for domestic and similar purposes	09-04-2013
5.	7993714	Hydrodyne (India) Pvt. Ltd., B-47, Paramount, New Link Road, Andheri-W Mumbai-400053	IS 2148 : 2004 flameproof enclosures for electrical apparatus	12-04-2013

[No. CMD/13 : 13]

A. S. JAMKHINDIKAR, Scientist 'F' & Head (MDM-III)

नई दिल्ली, 16 अगस्त, 2013

का.आ. 1833.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम सं.	स्थापित भारतीय मानक(कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों , यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आईएस/आईएसओ 105-E02 : 1994 वस्त्रादि रंग के पक्केपन का परीक्षण : भाग E02 समुद्री पानी के प्रति रंग का पक्कापन	आईएस 690 : 1988	जुलाई 2013

(1)	(2)	(3)	(4)
2.	आईएस 234 : 2013 वस्त्रादि — वस्त्रादि रेशों के रैखिक घनत्व ज्ञात करना (भारतक एवं वाईब्रोस्कोप विधि) विशिष्टि (दूसरा पुनपरीक्षण)	अमलगमेटींग आईएस 10014 (भाग 2) : 1981	जुलाई 2013
3.	आईएस 11056 : 2013 वस्त्रादि — कपड़ों की वायु के प्रति पारगम्यता ज्ञात करने की पद्धति (पहला पुनपरीक्षण)	—	जुलाई 2013

इन भारतीय मानकों की प्रतियां भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह ज़फ़र मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं ।

[संदर्भ टी एक्स डी/जी-25]

प्रभाकर राय, वैज्ञानिक 'ई' एवं प्रमुख (टी एक्स डी)

New Delhi, the 16th August, 2013

S.O. 1833.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl.No.	No. Title and Year of the Indian Standards	No. and year of the Indian Standards, if any, Superseded by the New Indian Standards	Date of Establishment
(1)	(2)	(3)	(4)
1.	IS/ISO 105-E02 : 1994 Textiles — Tests for Colour Fastness : Part—E02 Colour Fastness of Sea Water	IS 690 : 1988	July, 2013
2.	IS 234 : 2013 Textiles — Method for Determination of Linear Density of Textile Fibres (Gravimetric and Vibroscope Method) — Specification (Second Revision)	Amalgamating IS 10014 (Part 2) 1981	July, 2013
3.	IS 11056 : 2013 Textiles — Determination of the Permeability of Fibres to Air (First Revision)	—	July, 2013

Copy of above Indian Standards are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi- 110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram

[Ref. TXD/G-25]

PRABHAKAR RAI, Scientist 'E' & Head (TXD)

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 1 अगस्त, 2013

का.आ. 1834.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 32/2003) को प्रकाशित करती है जो केन्द्रीय सरकार को 7-5-2013 को प्राप्त हुआ था।

[सं. एल-12012/128/2003-आईआर (बी-II)]

सुमति सकलानी, अनुभाग अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 1st August, 2013

S.O. 1834.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 32/2003) of the Central Government Industrial Tribunal/Labour Court, Kanpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Punjab National Bank and their workman, which was received by the Central Government on 7-5-2013.

[No. L- 12012/128/2003-IR (B-II)]

SUMATI SAKLANI, Section Officer

ANNEXURE**BEFORE SRI RAMPARKASH, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR****Industrial Dispute No. 32 of 2003****Between-**

Sri Sunder Lal son of late Raman Lal,
Resident of Gawal Toli Hansari,
Jhansi.

And

The Regional Manager,
Punjab National Bank,
Regional Office,
Near Sudha Nursing Home,
Kanpur Road Jhansi.

AWARD

1. Central Government, Mol, New Delhi, vide notification no. L-12012/128/2003- IR B.II, dated 29.09.2003, has referred the following dispute for adjudication to this tribunal-
2. Whether any employer employee relationship exists between the management of Punjab National

Bank and Sunder Lal? Whether the action of Regional Manager Punjab National Bank, Jhansi in terminating the services of Sri Sunder Lal son of late Sri Serman Lal w.e.f. 01.3.02 is justified and legal? If not to what relief the workman concerned entitled to?

3. Brief facts of are-
4. It is alleged by the claimant that he was employed by the branch manager of Agrani Bank Office Punjab National Bank near Sudha Nursing Home, Kanpur Road Jhansi at the post of peon in April 2000. It is also alleged that he worked the work of permanent nature like distribution dak providing drinking water to the staff and customers of the branch etc. Initially he was paid Rs.100/- per month which was enhanced to Rs.250/- The bank was habitual of taking letter from the workman and only thereafter he was paid his wages with a view to escape from the applicability of the labour laws. After a long time when he was not paid the salary of the peon and his attendance was not marked in the attendance register, he requested the manager to pay his wages and his attendance should be marked, upon this the management got annoyed and the workman was removed orally from service w.e.f. 01.03.2002 without complying the mandatory provision of Section 25 F of the Act in so much so he was not paid any notice, notice pay or retrenchment compensation at the time of dispensation of his service by the management.
5. Lastly it has been prayed that he be reinstated in the service of the bank with full back wages and all consequential benefits.
6. Opposite party has filed written statement refuting the claim of the workman after raising preliminary objection that the claimant is not a workman, they have alleged that there is no relationship of master and servant, he was never employed on the post of peon or on any other post.
7. It is stated that the claimant was running canteen at LDM's office of the bank at Jhansi and he was being paid necessary subsidy in terms of canteen facility. It is reiterated that due to shifting of the LDM Office to the premises of Regional Office Building, there was no requirement of separate canteen facility and the same was discontinued with effect from 1.4.2002, therefore, there was no termination and thereby they have not committed breach of the provisions of the Act, therefore, the claimant is not entitled for any relief.
8. The opposite party has filed certain photocopies some of them are legible and others not.
9. Claimant has also filed a application along with affidavit paper no.8/1-4 along with certain

- photocopies demanding certain papers like Dad Distribution Register, also alleging that the photocopies 1-21 of which originals are in the custody of the opposite party which relates payment of wages to the claimant for the period May 2000 to Jan 2002 be summoned from the opposite party.
10. This application was decided by my learned predecessor vide order date 15.10.04 where in this application was allowed and the management was directed to file the original document by 16.12.04. When the management did not file the original of the summoned documents despite several dates an order was passed on 1.8.05 that legal presumption against the management shall be taken for not complying the order. Thereafter the file was taken in evidence for several dates. After a long gap management moved an application for recalling the order dated 15.10.04 and 1.8.05. This application was moved probably in the year 2012 and this application was rejected vide a detailed order dated 07.05.2012. Thereafter the file was again fixed for evidence.
 11. Despite several dates fixed for evidence the opposite party did not produce any evidence in support of their pleadings.
 12. Whereas the claimant has filed an affidavit in support of his pleadings as W.W.1.
 13. Opposite party was not present to cross the witness despite several dates so the opportunity of the management was closed.
 14. This statement of the workman is on oath. It is uncontroverted. He specifically stated that he was employed at the post of peon in April 2000 and he was used to perform distribution of dak and other allied work and he was paid through cheque his wages at the rate of Rs.250/- per month. When he raised his voice for declaring permanent he was removed from the service with effect from 01.03.2002.
 15. He has filed the documents paper no.1 – 21. The original of these documents are in the custody of the opposite party who was ordered to produce vide order dated 15.10.04 but they miserably failed and did not disclose any reason for not filing hence taking the help of Section 114 of Indian Evidence Act a legal presumption is drawn that had the original documents been filed by the management it would have gone against the management to draw the inference.
 16. The evidence adduced by the claimant documentary as well as on affidavit appears to be

believable. The opposite party has failed to file any evidence in rebuttal to the claim of the claimant.

17. From the evidence of the workman it is established that he had completed more than 240 days preceding 12 calendar months from the date of termination. It is also proved that the workman has not been paid any notice, notice pay or retrenchment compensation by the management at the time of termination of his service, therefore, his retrenchment is illegal and is liable to be set aside. Accordingly it is set aside and it is directed that the workman be reinstated in service with 50% back wages.

Dated : 1-5-2013

RAM PARKASH, Presiding Officer

नई दिल्ली, 1 अगस्त, 2013

का.आ. 1835.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब एण्ड सिंध बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 980/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 30-7-2013 को प्राप्त हुआ था ।

[सं. एल-12012/401/96-आईआर (बी-II)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 1st August, 2013

S.O. 1835.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. I.D. 980/2005) of the Central Government Industrial Tribunal/Labour Court-II, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Punjab and Sind Bank and their workman, which was received by the Central Government on 30-7-2013.

[No. L- 12012/401/96-IR (B-II)]

SUMATI SAKLANI, Section Officer

ANNEXURE

**IN THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-II,
CHANDIGARH**

Present : Sri A.K. Rastogi, Presiding Officer

Case No. I.D. No. 980/2005

Registered on 16.9.2005

Sh. Sukhwinder Singh, C/o Sh. H.C. Arora, H.No.2299,
Sector 44D, Chandigarh.Petitioner

Versus

The Regional Manager, Punjab and Sind Bank,
Regional Office, Kothi No.5, Kamla Nehru Nagar,
Bathinda, PunjabRespondents

APPEARANCES:

For the workman : Sh. Sandeep Bhardwaj Adv.

For the Management : Sh. J.S. Sathi Advocate.

AWARD

Passed on 9-7-2013

Central Government vide Notification No. L-12012/401/96/IR(B-II) Dated 29.8.1997, by exercising its powers under Section 10 Sub-section (1) Clause (d) and Sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal :—

“Whether the action of the management of Punjab and Sind Bank in dismissal of services of Sh. Sukhwinder Singh from the Bank w.e.f. 25-3-1992 is legal and justified? If not, to what relief the said workman is entitled?”

Vide charge-sheet dated 5.2.1987 the workman was charge-sheeted for committing large number of irregularities of very grave nature resulting in fraud amounting to Rs. 4,12,029.44 paise while working at Branch Office Abohar of Punjab and Sind Bank as Clerk/Typist working on the loans counter during the years 1981 to 1984 and was dismissed vide order dated 25.3.1992 from bank service after enquiry.

As per claim statement, an FIR had also been lodged against the workman for the alleged commission of fraud on the same facts but even after lapse of considerable years the police did not charge-sheet him. The plea for deferring the departmental enquiry to the conclusion of the criminal trial was not accepted by the bank and the departmental inquiry was conducted against him in most unfair and prejudicial manner and against the principles of natural justice. He was not provided reasonable opportunity of defence. The findings of the Inquiry Officer were not based on legal evidence and were perverse. The workman had represented against the findings of the Inquiry Officer to the disciplinary authority but the disciplinary authority without dealing with any of the contentions raised by the workman imposed the punishment of dismissal. The appeal of the workman against the punishment order was also dismissed by appellate authority in a most unjustified manner. The workman has prayed that the penalty of dismissal from

service being disproportionate to the alleged charge and harsh be set aside with continuity of service and full back wages.

The claim was contested by the management and it was stated that the workman had been charged for causing willful damage to the property of the bank by making fictitious credit entries, raising loans without security and non-existence of borrowers, embezzling amount by tempering with the bank record and exercising undue influence upon bank's customers for his benefit. According to the bank the enquiry had been conducted in accordance with the laid down procedure of Bipartite Settlement and the workman had been given opportunity to present documentary evidence and witness to prove his case. He had been given the copies of proceedings and had been permitted to avail services of the defence representative and thus the enquiry had been conducted as per Rules and Regulations in a just, fair and proper manner. The copy of enquiry report had been supplied to the workman to enable him to make any representation. He had also been given show cause notice against the proposed punishment and the workman had availed the opportunity and had made representation. The punishment order was passed by the disciplinary authority after considering the entire record of the inquiry and the proof/representation submitted by the workman. The disciplinary as well as appellate authority acted in accordance with the Rules and Regulations of bank and also in conformity with the principles of natural justice. The gravity of the charges proved against the workman is so serious that his continuation in bank service is against the interest of bank and also prejudicial to the customers and it would be highly unjustified to reinstate such workman in the service of the bank. As such the workman is not entitled to any relief and the reference deserves to be rejected. The claim was resisted on the ground of delay also.

In a rejoinder to the written statement the workman stated that there is no period of limitation specified under the ID Act for raising an industrial dispute.

In support of his case the workman examined himself and filed certain documents marked as W2 to W10, while on behalf of management Kanwarjit Singh, Senior Manager was examined. His statement could not be completed and had been deferred on 3.1.2008. Workman also stopped appearing in the case. A notice sent by registered post to workman returned with postal endorsement 'left without address' hence the case was ordered to proceed ex parte against workman on 16-8-2010.

From the perusal of the record it was found that on a previous occasion the case had proceeded ex parte against management and the written arguments had been filed on behalf of workman on 25.11.2003. I have perused those arguments and also the evidence on record and heard the learned counsel for management.

It has been argued on behalf of workman in the written arguments that dismissal of the workman is violative of the provisions of Bipartite Settlement as the prosecution agency failed to make out a case for prosecution. The management was at liberty to proceed against the workman under the provisions of Bipartite Settlement relating to discharge and in that event if ultimately after enquiry it is decided not to continue such a workman in service, he shall be liable only for termination with three month's pay and allowances in lieu of notice as provided in Clause 19.3 of the settlement and since in the present case the prosecution agency has failed to present the charge-sheet even after more than a decade, the workman should not have been imposed the punishment of dismissal from service.

The learned counsel for management argued that the referred provisions of Bipartite Settlement are not applicable in the present case. Para 19.4 of Bipartite Settlement of 1966 provides that if after steps have been taken to prosecute the employees or to get him prosecuted, for an offence, he is not put on trial within a year of the commission of the offence, the management may then deal with him as if he had committed an act of "gross misconduct" or "minor misconduct" provided that if the authority which was to start prosecution proceedings refused to do so or come to the conclusion that there is no case for prosecution it shall be open to the management to proceed against the employee under the provisions set out in Clause 19.11 and 19.12 relating to discharge and in the event of the management deciding, after enquiry, not to continue him in service, he shall be liable only for termination with three months' pay and allowance in lieu of notice as provided in Clause 19.3. The learned counsel for management argued that the provision for termination with three months' pay and allowance in lieu of notice will apply only if the police who was to start prosecution proceedings had refused to do so or had come to the conclusion that there is no case for prosecution. In the present case it is not the case of the workman that the police had submitted a closure report.

I agree with the learned counsel for the management and I am of the view that the provisions of the Bipartite Settlement relied on by the workman in his written arguments are not applicable in the case.

The workman in his claim statement has also alleged that the enquiry was not according to the principles of natural justice and was not conducted in fair and proper manner but from the statement of the workman it appears that the enquiry had been conducted according to the principles of natural justice. He has admitted during cross-examination that he had been served with a charge-sheet; he had been allowed to engage a defence representative and had been allowed opportunity to cross-examine the witness of the management. He also admitted that the enquiry Officer had given him an opportunity to produce

the defence evidence but the witness summoned being employee of the bank had not appeared in the enquiry. He also admit to have received the copy of the enquiry report and show cause notice and to have replied also the show cause notice.

From the statement of workman it is clear that the enquiry had been conducted in a fair and proper manner.

The Enquiry report which has been filed by the workman himself as W3 shows that the workman had admitted the allegation in his affidavit dated 12.2.1985 and 13.2.1985 in his letter dated 13.2.1985 and 14.2.1985 and had deposited cash on 14.2.1985 and 5.3.1985. The workman had deposited Rs.1, 90, 000/- and Rs.17, 656.95 paise. This argument of the workman cannot be accepted that there is no evidence against him or the confessional statement is no evidence. The law laid down in **Natwarbhai S. Makwana Vs. Union Bank of India and others 1985 I LLN 644** decided by the Hon'ble Gujarat High Court and relied on by workman in his written arguments is not applicable in the case. In that case the confession or admission of the employee was not forming part of charge. The Hon'ble High Court therefore held that he cannot be guilty for which there was no charge. Admission has got to be correlated with the charge only.

On the basis of the above law it cannot be said that the workman cannot be held guilty on the basis of confession. Against it confession is the best evidence against its maker. It is not the quality but the quantity of the evidence which is material for establishing the charge. I am therefore of the view that the enquiry was conducted in a proper and fair manner and there was sufficient evidence to prove the guilt of the workman. He had been charged for committing a large number of irregularities of a very grave nature resulting 4, 12, 029.44 paise and the punishment of dismissal from service of the bank was justified. The reference is answered against the workman. He is not entitled to any relief.

ASHOK KUMAR RASTOGI, Presiding Officer

नई दिल्ली, 1 अगस्त, 2013

का.आ. 1836.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 11/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 20-7-2013 को प्राप्त हुआ था।

[सं. एल-12011/301/2003-आईआर (बी-II)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 1st August, 2013

S.O. 1836.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 11/2004) of the Central Government Industrial Tribunal/Labour Court, Kolkata now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Punjab National Bank and their workman, which was received by the Central Government on 20-7-2013.

[No. L-12011/301/2003-IR (B-II)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, KOLKATA

Present : JUSTICE G.S. SARRAF, Presiding Officer

REFERENCE No. 11 OF 2004

Parties : Employers in relation to the management of Punjab National Bank

And

Their workmen (Shri Sudhangshu Mahapatra)

Appearances :

For Punjab National Bank : Shri A Indwar, Manager

For Punjab National Bank : Shri S. Mukherjee,
Employees Union President

State : West Bengal

Kolkata, dated 6th day of May, 2013

AWARD

This is a reference made by the Central Government in exercise of its powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947. The terms of reference given in the schedule are as follows :

“Whether Mr. Sudhangshu Mahapatra, Special Assistant, working at Medinipore Branch of Punjab National Bank is entitled for a stagnation increment of Rs.230 in the pay scale of Rs. 900-2835 w.e.f. 1.11.1996 or not? If not, what relief he is entitled to?”

2. According to the statement of claim filed by the Union the workman Sudhangshu Mahapatra joined the services of the Punjab National Bank (hereinafter referred as the Bank) in April, 1977 as a Clerk. As per promotion policy of the Bank he became an officer in JMG Scale-I in November, 1985 through process of selection and was posted at a rural branch in Midnapur Region (West

Bengal). Because of his continuous illness he was unable to discharge his duties properly and therefore he made a representation for his reversion to the post of Clerk on 21.12.1987. The competent authority granted his prayer and posted him as Clerk at BO : Khajra in the district of Midnapur vide letter dated 18.03.1988. He was then selected as a Special Assistant and posted at Branch Office Midnapur. As per norms he was entitled to stagnation increment with effect from November, 1996 and accordingly his case was recommended by the Branch Manager to the Regional Office, Midnapur vide letter dated 07.02.1997. Competent authority, however, disallowed his claim. Aggrieved, he made a representation before the Regional Manager, Midnapur which was rejected. He thereafter raised an industrial dispute. The Union has prayed that the workman Sudhangshu Mahapatra be given stagnation increment.

3. According to the written statement filed by the Bank as per the terms of Bipartite Settlement dated 14.02.1995 an employee is not entitled to any stagnation increment if he seeks reversion after one year of the acceptance of the promotion. In the instant case the stagnation increment of the workman fell due in November, 1996 but as he sought reversion after one year of the promotion he was not entitled for the same under the Bipartite Settlement dated 14.02.1995.

4. The union did not file any affidavit of any witness. The Bank, however, examined Rati Kanta Patnayak.

5. Heard Shri S. Mukherjee on behalf of the union and Shri A. Indwar on behalf of the Bank.

6. The workman was promoted on 18.11.1985. After one year of the promotion he sought reversion to the post of Clerk on the ground of illness on 21.12.1987. The workman's reversion was allowed by the Bank by letter dated 18.03.1988 and he was actually reverted to the post of Clerk on 02.04.1988. The workman reached the maximum of pay on 01.11.1993. His stagnation increment became due on 01.11.1996.

7. The Bipartite Settlement dated 14.02.1995 was made effective from 01.11.1992. Clause 5(c)(ii) of the Settlement says that an employee shall not be eligible for stagnation increment's if he, after accepting promotion, seeks, and is granted, reversion after one year from the date of promotion.

8. I have no doubt that the Settlement dated 14.02.1995 which has been made applicable with effect from 01.11.1992 applies in this case. Since the workman sought and was granted reversion after one year from the date of his promotion, he is not entitled to any stagnation increment under Clause 5(c)(ii) of the Settlement dated 14.02.1995.

9. In view of the above discussion, it is clear that the workman is not entitled to any relief.

Award is passed accordingly.

JUSTICE G. S. SARRAF, Presiding Officer

नई दिल्ली, 1 अगस्त, 2013

का.आ. 1837.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सैन्ट्रल बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 47/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-3-2013 को प्राप्त हुआ था।

[सं. एल-12012/99/2011-आईआर (बी-II)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 1st August, 2013

S.O. 1837.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 47/2012) of the Central Government Industrial Tribunal/Labour Court, Kanpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 26-3-2013.

[No. L- 12012/99/2011-IR (B-II)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE SRI RAM PARKASH, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOR COURT, KANPUR

Industrial Dispute No. 47 of 2012

Between :

Sri Akhilesh Srivastava son of Sri R R Prasad,
Resident of 911/7, (1), Sewa Ram II Mills,
Civil Lines Jhansi.

And

The Regional Manager,
Central Bank of India,
Regional Office,
372/18-A, Civil Lines,
Jhansi.

AWARD

1. Central Government, MoL, New Delhi, vide notification No. L-12012/99/2011-IR-B-II dated 28.05.2012, has referred the dispute for adjudication to this tribunal.

2. Whether the action of the management of Central Bank of India, Jhansi, in imposing the capital punishment dismissed without notice upon Sri Akhilesh Srivastava, Ex-Head Cashier, son of Sri R R Prasad, vide order dated 18.04.09 is legal and is justified? What relief the concerned workman is entitled to?

3. In the instant case after receipt of reference order from the Ministry, repeated notices under registered post have been issued to the Union raising the dispute, Again registered notice was sent to the workman from the office of the tribunal but neither appeared in the case nor did he file any claim statement.

4. Therefore, from the conduct of the Union it is crystal clear that he is not interested in prosecuting with the case, therefore, reference is bound to be decided against them for want of pleadings and proof.

5. Therefore, reference is decided in the above terms against the workman holding that he is not entitled for any relief pursuant to the present reference.

6. Reference is answered accordingly.

RAM PARKASH, Presiding Officer

नई दिल्ली, 1 अगस्त, 2013

का.आ. 1838.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 18/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-7-2013 को प्राप्त हुआ था।

[सं. एल-12012/122/2007-आईआर (बी-II)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 1st August, 2013

S.O. 1838.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 18/2008) the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 25-7-2013.

[No. L- 12012/122/2007-IR (B-II)]

SUMATI SAKLANI, Section Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, LUCKNOW****PRESENT**

Dr. MANJU NIGAM, Presiding Officer

I.D. No. 18/2008

Ref. No. L-12012/122/2007-IR (B-II) dated: 28.02.2008

BETWEEN:

Shri Ganesh Singh
S/o Late Jagdamba Singh,
Village & Post Virohi,
Mirzapur (UP)

AND

The Zonal Manager,
Bank of India,
Goding Star,
B-20/44-A, Bhelapur,
Varanasi (UP)

AWARD

1. By order No. L-12012/122/2007-IR (B-II) dated : 28.02.2008 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Shri Ganesh Singh S/o Late Jagdamba Singh, Village & Post Virohi, Mirzapur (UP) and the Zonal Manager, Bank of India, Goding Star, B-20/44-A, Bhelapur, Varanasi (UP) for adjudication.

2. The reference under adjudication is:

“Whether the action of the management of Bank of India in terminating the services of Shri Ganesh Singh, Armed Guard w.e.f. 27.11.2001 is justified and legal? If not, what relief the concerned workman is entitled to?”

3. It is admitted case of the parties that the workman, Ganesh Singh had been working with the Bank as Armed Guard when he had been suspended vide order dated 19.07.2001 for his alleged involvement in the Criminal Case No. 58/2001 u/s 307 IPC and Criminal case No. 59/2001 u/s 307 IPC and Criminal case No. 60/2001 u/s 25 of the Arms Act. The workman's services were terminated vide order dated 27.11.2001 of the Zonal Manager after giving him three months' pay in lieu of notice.

4. The workman in his statement of claim has alleged that he moved a Writ Petition No. 364606/2001 before Hon'ble High Court against his suspension; and the management revoked his suspension vide letter dated 27.11.2001; but terminated his services with immediate

effect through another letter dated 27.11.2001 on the grounds of loss of confidence, without affording him any opportunity of hearing or defence. The workman filed another writ petition No. 1930/2002 against illegal termination, which was dismissed on the grounds of alternate remedy. The workman has alleged that termination of his services without giving any charge sheet or conducting any departmental inquiry is contrary to the law and principles of natural justice; and accordingly, his illegal termination is liable to be set aside and the workman is liable to be reinstated with consequential benefits.

5. The management in its written statement has submitted that the workman had been appointed vide letter dated 13.10.1997 on the specified terms and conditions as applicable to Armed Guards of the Bank. The security of the Bank premises and valuables kept therein is of paramount importance and as such Armed Guard is very sensitive assignment in the Banking System. The involvement of the workman in criminal cases led to loss of confidence of the Bank in its employee; and accordingly, the services of the workman were terminated as per provisions contained in para 522 of the Shastri Award after complying with the norms given therein. The management has contended that its action of terminating the services of an employee in whom the Bank had lost its confidence was lawful as his involvement in various cognizable offences were basis of their loss of confidence in the workman; and accordingly, it has prayed that the claim of the workman be rejected without any relief to him.

6. The workman has filed its rejoinder wherein he has only reiterated his averments already made in the statement of claim and has introduced nothing new.

7. The parties have filed documentary evidence in support of their respective claim. The workman examined himself whereas the management has examined Shri Rakesh Kumar Sharma, Manager in support of their stands. The parties availed opportunity to cross-examine the each other's witnesses and forwarded oral arguments.

8. Hear representatives of the parties and perused entire evidence on record.

9. The authorized representative of the workman has argued that the management has acted arbitrarily in terminating the services of the workman merely on the institution of criminal case against him, without giving him a charge sheet or holding any departmental inquiry against him. He has further urged that the workman had been denied of opportunity to defend himself as the management did not conducted any inquiry before penalizing him. It is a principle of natural justice that before penalizing an official the management is duty bound to conduct a domestic enquiry into the misconduct of the delinquent official and he should be afforded proper opportunity to defend himself. It was further submitted

that workman had been falsely implicated in the criminal case. The management without going into the facts, acted in haste; examined the situations superficially and terminated the services of the workman on the grounds of 'loss of confidence'. It has been further submitted that since the workman had not been convicted by the criminal court therefore, the action of the management in terminating the services of the workman, considering the criminal cases is bad in the law and he is entitled for reinstatement. He has relied on *Babul Lal vs. Narmada Shakari Tel Prakriya Samiti Maryadit Khargone & others* FLR 1996 (74) 1960 and *Workman of Subong Tea Estate vs. The outgoing Management of Subong Tea Estate* 1977-88 SCLJ 3634.

10. In rebuttal the authorized representative of the Bank has submitted that it is not disputed that the FIR was lodged against the workman u/s 307 of IPC and u/s 25 of Arms Act and thereafter criminal cases were also instituted against him. He has further submitted that the Banking Industry involves a lot of risks in as much as huge amount of cash and valuable securities are to be guarded vigilantly and are transferred from one place to another in a routine course of businesses system. The security of the Bank premises and valuables kept there in is of paramount importance and as such armed guard is very sensitive assignment in the Banking system. It was also submitted that the service conditions of the Armed Guard in the Banking Institutions are governed by Bipartite Settlement with time to time amendments Shastri and Desai Awards; and accordingly, primarily the workman was placed under suspension and was paid suspension allowance and thereafter his services were terminated in view of provisions contained in para 522 (i) of the Shastri Award without holding any disciplinary inquiry; after complying with the conditions given therein. It has been further argued that the services of the workman were terminated for loss of confidence in accordance with the terms contained in para 522 (i) of Sastry Award which amounts to termination simplicitor. As the services were terminated under the aforementioned provision of the Sastry Award, where there is no need to issue charge sheet and no misconduct was required to be proved.

He has relied on *Pavnendra Narayan Verma vs. S.G.P.G.I. of Medical Sciences* and another 2002 (92) FLR 349 (SC) and *Suresh Chandra vs State of UP and others*, 2010 (124) FLR 594.

11. I have given my thoughtful consideration to the rival contentions of the authorized representative of the parties and scanned entire evidence available on record.

12. The case of the workman, is that he was appointed as Armed Guard with the management of the Bank and his services had been terminated by the Bank for his involvement in the criminal cases, without

conducting any domestic inquiry in the matter, which amounts to flagrant denial of justice; accordingly, he has prayed that the termination of his services be declared illegal and he be reinstated with all consequential benefits.

13. Per contra, the management of the Bank has come forward with the case that the termination of the services of the workman is termination simplicitor which resulted due to loss of confidence in the workman for his alleged involvement in the cognizable offence u/s 307 IPC and Section 25 of the Arms Act. The validity of the Bank's action in terminating the services of the workman without holding any formal inquiry into the matter of the workman rest upon the provisions contained in para 522 (1) of the Sastry Award, which provides that the services of a permanent employee can be terminated by giving him three months' notice or notice pay in lieu thereof. The management has contended that since it has paid three months pay in lieu of notice, its action in terminating the services of the workman, due to loss of confidence in him, in compliance of provisions contained in para 522 (1) of the Sastry award is fully justified.

14. In view of the rival contention of the parties the para 522 (1) of the Sastry Award is of out most importance, which is quoted hereunder:

“(1) In cases not involving disciplinary action for misconduct and subject to clause (6) below, the employment of a permanent employee may be terminated by three months' notice or on payment of three months' pay and allowances in lieu of notice. The services of a probationer may be terminated by one month's notice or on payment of a month's pay and allowances in lieu of notice.

A bare perusal of the above mentioned shows that the cases where no disciplinary action for misconduct is required, the management is at liberty to terminate the services of its employee by giving him three months' notice or on payment of three months' pay and allowances in lieu of notice.

15. The principle that to determine whether the misconduct is motive or foundation of order of termination, the test to be applied is to ask the question as to what was the object of the enquiry. In *State of Orissa vs. Ram Narayan Das* 1961 (2) FLR 1 (SC), Hon'ble Apex Court has observed as under:

“If an enquiry or an assessment is done with the object of finding out any misconduct on the part of employee and for that reason his services are terminated, then it would be punitive in nature. On the other hand, if such an enquiry or an assessment is aimed at determining the suitability of an employee for a particular job, such termination would be termination simplicitor and not punitive in nature.

In the case of Pavenendra Narayan Verma v. Sanjay Gandhi P.G.I. of Medical Sciences and Another 2002 (92) FLR 349 (SC) Hon'ble Supreme Court laid down the test to determine the nature of the termination order, i.e. whether the termination is punitive or simplicitor. The Court observed that one of the judicially involved tests to determine whether in substance an order of termination is punitive is to see whether prior to the termination there was (a) a full scale formal enquiry (b) into allegations involving moral turpitude or misconduct which (c) culminated in a finding of guilt. If all three factors are present the termination has been held to be punitive irrespective of the form of the termination order. Conversely, if any one of the three factors is missing the termination has to be upheld.

In the case of *Gujrat Steel Tubes Ltd. Vs. Gujrat Steel Tubes Mazdoor Sabha* 1980 (40) FLR 152 (SC), it was observed by the Hon'ble Justice Krishna Iyer that:

“a termination effected because the master is satisfied of the misconduct and of the consequent desirability of terminating the service of the delinquent servant, is a dismissal. If there is suspicion of misconduct the master may say that he does not wish to bother about it and may not go into his guilt but may feel lime not keeping a man he is not happy with. He may not like to investigate nor take the risk of continuing a dubious servant. Then it is not dismissal but termination simplicitor, if no injurious record of reasons or punitive pecuniary cut-back on his full terminal benefits is found. For, in fact, misconduct is not then the moving factor in the discharge. In other words it will be a case of motive if the master, after gathering some prima facie facts, does not really wish to go into their truth but decides merely not to continue a dubious employee. The master does not want to decide or direct a decision about the truth of the allegations. But if he conducts an enquiry only for the purpose of proving the misconduct and the employee is not heard, it is a case where the enquiry is the foundation and the termination will be bad.”

16. In the light of above legal position, it has to be determined whether, in substance, the order of termination, in the present case is punitive in nature or termination is simplicitor. In the instant case, it is admitted that the workman involved in the criminal cases, pertaining to Section 307 IPC and 25 of the Arms Act. Also, the workman had been detained in jail for the period from 14.05.2001 to 26.06.2001, which resulted into his suspension. The workman during his cross-examination has stated that the criminal case in which he was detained is still pending. The opposite party bank is a financial institution which deals with the public money. Trust and integrity are basic qualities of the employee of the Bank. The post of the

Armed Guard is a post of trust and great confidence, as the duty of the armed guard is not only to provide security to the Bank's property/premises and its customers but also to the hard earned money of the masses; and involvement of such an employee, in criminal cases, who holds a strategic post leads to embarrassment and inconvenience to the Bank and is also detrimental to the discipline and security of the Bank. If a person who himself is indulged in anti social activities then how he is supposed to carryout such a responsible work i.e. providing security to public money and bank property.

Admittedly, the integrity of the workman became doubtful for his alleged involvement in cognizable offences. Also, as per workman's own statement the said criminal cases are still pending against him. Had he been acquitted from criminal cases, then it might have been considered that he was falsely implicated in the criminal cases; but here the scene is different, which supports the stand of the management that it lost the confidence in the workman and accordingly, terminated his services after complying with the provisions given in para 522 (1) of the Sastry Award. As discussed above termination of workman is not punitive but the termination is simplicitor, no opportunity was required to be given to the workman before passing of the impugned order and giving him three months' pay in lieu of notice as per the para 522 (1) of the Sastry Award catered all that was required before terminating the services of the workman.

17. Thus, in view of the facts and circumstances stated above and law of the Apex Court, I am of the opinion that the action of the Bank management in terminating the services of the workman, in terms of provisions contained in para 522 (1) of the Sastry Award; who had allegedly been involved in the cognizable offence of serious nature, was neither illegal nor unjustified. Accordingly, I come to the conclusion that the workman, Dinesh Singh is not entitled for any relief.

18. Award as above.

Lucknow

15th July, 2013

Dr. MANJU NIGAM, Presiding Officer

नई दिल्ली, 1 अगस्त, 2013

का.आ. 1839.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इलाहाबाद बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 16/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-5-2013 को प्राप्त हुआ था।

[सं. एल-12012/38/2001-आईआर (बी-II)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 1st August, 2013

S.O. 1839.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 16/2002) of the Central Government Industrial Tribunal/Labour Court, Kanpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Allahabad Bank and their workman, which was received by the Central Government on 7-5-2013.

[No. L- 12012/38/2001-IR (B-II)]

SUMATI SAKLANI, Section Officer

ANNEXURE

**BEFORE SRI RAM PARKASH, HJS, PRESIDING
OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOR COURT,
KANPUR.**

Industrial Dispute No.16 of 2002

Between :

Sri Narendra Sharma,
C/o L. Radhey Shaym Sharma,
Plot No. 3268,
Awasth Vikas Yojna No. 3,
Panki Road, Kalyanpur,
Kanpur

And

The Assistant General Manager,
Allahabad Bank,
Regional Office,
Pandu Nagar,
Kanpur.

AWARD

1. Central Govt., MoL, New Delhi vide notification no. L-12012/38/2001-IR (B-II), dated 20.07.01, has referred the following dispute for adjudication to this tribunal—
2. Whether any employer employee relationship exist between the management of Allahabad Bank and Sri Narendra Sharma son of Late Radhey Shyam Sharma? If so whether the action of Regional Manager/Branch Manager, Allahabad Bank Kanpur. In terminating the services of Sri Narendra Sharma with effect from 27.05.2000, is legal and justified? If not what relief the concerned workman is entitled to?
3. Brief facts are—
4. It has been alleged by the claimant that he was engaged for the post of peon on 17.05.99 by the

Allahabad Bank at its Vijai Nagar Branch by the then branch manager Sri M. K. Mishra and he was being paid Rs.50 per day. His job was of permanent nature like to bring drinking water in the branch, to bring registers, to bring vouchers from the cash department, to provide token to the customers of the branch and to bring stationery etc. It is also stated besides the above work he was also deployed to operate the generator. When made a demand for his permanency in the service of the bank the officers of the bank annoyed and he was removed from the service of the bank by oral order. He had worked for more than 240 days of continuous service. Lastly it has been prayed that he be reinstated in the service of the bank with full back wages.

5. Opposite party has filed reply alleging that the applicant was never engaged by the bank, there exist no relationship of master and servant between the bank and the workman. However, they have stated that the bank had given a contract to Dharm Electricals Kanpur for providing and running a generator of 5 KVA at Vijai Nagar Branch. After installation of generator the contractor for full filling his part of agreement to run the generator had deputed the claimant on his behalf to operate the generator as such the claimant was operating the generator on behalf of the contractor. At no point of time he was engaged as peon at all. It is also stated that there was already sufficient strength of peons at the branch and as such there could be no occasion to appoint the claimant. As there was no termination, question of flouting the provisions of the Act does not arise. Therefore, the claimant is not entitled for any relief.
6. Rejoinder has also been filed but nothing new has been stated therein.
7. Both the parties have filed the documentary evidence as well as adduced oral evidence.
8. Claimant has filed 127 papers which are photocopies in the nature mostly illegible. These paper are paper no. 14/7 to 14/128.
9. Opposite party has filed three payment vouchers which are certified copies of the vouchers alleging that these are not in the name of the claimant.
10. Claimant has adduced himself as W.W.1 Narendra Sharma. Opposite party has produced one Sri Manoj Mishra who is the Sr. Manager of the Bank as M.W.1.
11. I have heard and examined the evidence of both the parties documentary as well as oral.
12. It has been alleged by the claimant that he was engaged in the year on 17.5.99 by the Branch Manager M. K. Mishra. M.W.1 is the person who has been

- the branch manager during the period 1997 to 2000. He has stated on oath that during that period there were two sub staff working in the year 1999 and they were permanently posted. Their names are Devender and Shyam Sunder Sharma. They have never employed Sri Narendra Kumar Sharma as peon and they have never made any payment in the name of the claimant. Whenever there was need for purchase of misc. items a voucher was prepared in the name of sub staff and the payment was made to them.
13. Much stress has been given by the claimant on paper no. 14/7 to 9. These are the vouchers dated 9.10.99, 16.10.99 and 23.10.99.
 14. Both the parties have filed the photocopies of these vouchers. It has been contended by the opposite party that original of these vouchers were sent to AGM Office, on 7.10.05 and thereafter original vouchers are not traceable and they have also filed an affidavit paper no. 33/3-4 of a Manager which has been considered by me.
 15. A.R. for the claimant is pressing that the aforesaid vouchers 14/7-9 bears the signature of Sri Narendra Sharma on the back of these vouchers, whereas the auth. Rep. of the opposite party as well as M.W. 1 stated on oath that two vouchers dated 9.10.99 and 16.10.99 were prepared in the name of S S Sharma to bring water etc. Sri S S Sharma is a member of the sub staff as stated by M.W. 1. On the front of these voucher there is specific endorsement - cashier please pay Sri SS Sharma. This voucher also bears the signature of Sri Sharma on the back of these vouchers.
 16. The contention of the A.R. for the opposite party is that when the payment was made to S S Sharma and endorsement to this effect is available on the front side of these voucher how he would be able to sign these vouchers on the back. Opposite party stated that the claimant somehow procured the photocopy of these vouchers and put his signature and again got it photo copies, which have been filed. Similarly voucher paper no.14/9 is in the name of M Mishra and is not in the name of Narendra Sharma.
 17. It is also stated by the opposite party that in para 4 of the claim statement the claimant himself has written that all the vouchers which were prepared under the Head of payment of salary, but the claimant came to know these vouchers were torn by the management and prepared another voucher under the head of water.
 18. In this way also there cannot be any voucher as wages or salary in the name of the claimant. I have also considered the other documents filed by the claimant paper no.14/10-128. Cognizance of such

type of documents cannot be taken which are photocopies.

19. There is no appointment letter, whereas M.W.1 has specifically stated that to appoint any sub staff there is a prescribed procedure and this power also vested in the Head Office of the bank. Claimant was nowhere appointed or engaged through this procedure.
20. Therefore, the claimant has failed to prove that he was employed for the post of peon and he continuously worked for 240 days before his termination which is 25.05.2000. There is no cogent oral as well documentary evidence that the claimant had worked for more than 240 days. Initial burden lies on the claimant to prove that he had worked for more than 240 days continuously. Therefore the claimant failed to discharge his obligation in this regard.
21. Consequently it is held that the claimant is not entitled for any relief as claimed by him.
22. Reference is accordingly answered against the claimant and in favour of the opposite party.

RAM PARKASH, Presiding Officer

नई दिल्ली, 5 अगस्त, 2013

का.आ. 1840.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दक्षिण पूर्व रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 116/99) को प्रकाशित करती है जो केन्द्रीय सरकार को 1-8-2013 को प्राप्त हुआ था।

[सं. एल-41012/137/98-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 5th August, 2013

S.O. 1840.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 116/99) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of S.E. Railway and their workmen, received by the Central Government on 1-8-2013.

[No. L- 41012/137/98-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM LABOUR COURT, JABALPUR

No. CGIT/LC/R/116/99

Presiding Officer : SHRI R.B. PATLE

Shri Pushpachandrahas Vyas,
Ex -Casual Gangman,
Vge . Thyodharivaghelan,
Distt. Satna (MP)

...Workman

Versus

Divisional Railway Manager,
South Eastern Railway,
Bilaspur

...Management

AWARD

Passed on this 4th day of July 2013

1. As per letter dated 9-3-99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. L-41012/137/98/IR (B-I). The dispute under reference relates to:

“Whether the action of the management of Railways, The Divisional Railway Manager, S.E. Railway Bilaspur terminating the services of Shri Pushpachandrahas Vyas Ex-Casual Gangman w.e.f. 27-6-98 is justified? If not, to what relief the workman is entitled ?”

2. After receiving reference, notice's were issued to the parties. 1st party workman filed Statement of claim at Page 2/1 to 2/3. The case of 1st party is that he was employee of IInd party. His services were illegally terminated. Workman is less qualified, only he can sign, he cannot read or write in English. The certificate of past service granted to him by PWI was mentioning wrong dates. It resulted the certificate as false. That 1st party workman had no intention to obtain service by producing false certificate. If he was so literate, he would not have knowingly produced false certificate. The certificate was not issued on letter pads. The certificate mentioning wrong period of service is a curable mistake as Party No.1 worked for years together. He had educational qualifications and experience. The termination of his service is not legal. Order of termination of service dated 27-6-88 be set aside. Workman prayed for his reinstatement with consequential benefits.
3. IInd party filed Written Statement at Page 6/1 to 6/3. IInd party submits that the allegation of applicant that he was illegally terminated from service are denied. That the services of applicant were properly terminated as he secured Job producing false service certificate. The contentions of the 1st party that he is less qualified, he cannot read or speak in English is denied. It is submitted that what 1st party is doing,

shows he understands contents of service-certificate submitted for his appointment as casual gangman. The 1st party had submitted petition before Hon'ble CAT, Jabalpur and ALC. He was himself defending those proceedings. The claim of 1st party ignorance of the contents of certificate is denied. It is further submitted that workman himself had admitted in Departmental Enquiry, that he has produced past working certificate even though he did not work at all under PWI Bhatapara. That PWI Bhatapara stated that workman Pushpachandrahas has never worked under his control. He did not discharged him at any time and hence the claim of applicant that past service certificate issued by PWI Bhatapara is not accepted by Railway Administration is false. It is submitted that no question arise to verify or rectify such false certificate. The workman never worked in Railway before obtaining appointment as casual Gangman on 8-8-83. The termination order issued by Railway Administration is correct. Other contentions of workman are denied as false. IId party prays for rejection of claim of workman.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below :—

- | | |
|---|---------------------------------------|
| (i) Whether the action of the management of Railways, The Divisional Railway Manager, S.E. Railway Bilaspur terminating the services of Shri Pushpachandrahas Vyas Ex-Casual Gangman w.e.f. 27-6-98 is legal? | In Affirmative |
| (ii) If so, to what relief the workman is entitled to?" | Relief prayed by workman is rejected. |

REASONS

5. 1st party workman is challenging termination of his service contending that the past service certificate produced by him. He had no knowledge of its contents. The certificate was not intentionally produced to secure employment. Affidavit of evidence is filed by workman. He has stated that he was working in S.E. Railway, Bilaspur under PWI. Thereafter he was working under PWI for 5 years. No enquiry was held against him before termination of his service. That certificate received by him was produced in the same condition. The certificate was not prepared or fabricated by him. He received education upto Vth standard. He cannot read or write English. PWI issued certificate, was removed from service. Other person was working in his place. That

two person cannot be punished for same ground. In his cross-examination, workman says from 1983, he was working. under PWI Khongsara. He was working till 1988 in Railways. That he had not produced past service certificate. That he had not worked in Railway prior to 1983. That prior to joining service in Railway in 1983, he had not submitted any false service certificate.

6. Management adduce evidence of witness Namdeo Raghav by affidavit. The witness of management has stated that there was a departmental vigilance enquiry. The Vigilance party ceased the documents related to appointment and service records of the applicants and records are not available in the office. On the basis of correspondence available in office, he states that the workman had given false certificate for obtaining employment. On the basis of complaint received, the matter was sent to Vigilance deptt. The Vigilance enquiry, the certificate was found false. Therefore the service of the workman was dispensed with. In his cross-examination, management's witness says he was working on several posts from 5-3-2001. On report of vigilance, chargesheet was issued to the workman. Those persons were removed from service after completion of the departmental enquiry. The PWI concerned was suspended and there after he was terminated from service. PWI Mr. M.H. Kumar has died. That he had not received record despite of writing several letters.
7. The pleadings and evidence of 1st party workman are considered. In his statement of claim, he says that he had no knowledge about the past service certificate as he cannot read or write English. He has not intentionally submitted certificate for obtaining employment. In his evidence of affidavit, he claims that the certificate received by him from department was produced in the same condition. The PWI concerned issuing certificate was dismissed from service. There appears substance in the contentions of IInd party that past service certificate produced by workman was found false after vigilance enquiry. The PWI concerned was dismissed from service. If past, service certificate was false, the employment given on the basis of such certificate cannot be said legal.
8. At the time of argument, learned counsel for Ist party submitted that no documents were produced by management. Reliance is placed on ratio held in case of —
 “S.Kirpal Singh Duggal Versus Municipal Board, Ghaziabad reported in AIR 1968—Supreme Court 1416. The party in possession of best evidence which would throw light on the issue in controversy withholding it. Court ought to draw an adverse

inference against him notwithstanding that onus of proof does not lie on him. Party cannot rely on abstract doctrine of onus of proof or on the fact that he was not called upon to produce it.”

9. IInd party has produced the documents. Those documents show that Ist party Pushpachandrahas had filed proceedings before CAT, Jabalpur challenging his termination from service. Reply was filed by IInd party. The record of Enquiry Proceedings is also produced. The Ist party has not stated anything about the Enquiry Proceeding. The pleading and evidence of the workman clearly refers. that the past service certificate was produced by him but he says that he has no knowledge about its contents. When the documents produced for getting employment was found false after examination, the termination of service of workman cannot be said illegal. For above reasons, I record my finding in Point No. 1 in Affirmative.
10. In the result, award is passed as under :—
 1. The action of the management of Railways, The Divisional Railway Manager, S.E. Railway Bilaspur terminating the services of Shri Pushpachandrahas Vyas Ex-Casual Gangman w.e.f. 27-6-98 is legal.
 2. Relief prayed by workman is rejected.

R. B. PATLE, Presiding Officer

नई दिल्ली, 5 अगस्त, 2013

का.आ. 1841.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार नीमार क्षेत्रीय ग्रामीण बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 180/97) को प्रकाशित करती है जो केन्द्रीय सरकार को 1-8-2013 को प्राप्त हुआ था।

[सं. एल-12012/121/90-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 5th August, 2013

S.O. 1841.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 180/97) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Nimar Kshetriya Gramin Bank and their workmen, received by the Central Government on 1-8-2013.

[No. L- 12012/121/90-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR****No. CGIT/LC/R/180/97**

Presiding Officer : SHRI R.B. PATLE

Shi Harish Kumar,
S/o Shri Ramkishan Bhutda,
Village Semri, Tehsil Suhagpur,
Distt. Hoshangabad ...Workman

Versus

Chairman,
Nimar Kshetriya Gramin Bank,
4, Nutan Nagar Colony,
Khargaon,
Distt. Khargone (MP) ...Management

AWARD

Passed on this 2nd day of July 2013

1. As per letter dated 4-7-87 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. L-12012/121/90/IR (B-I). The dispute under reference relates to:

“Whether the action of the management of Nimar Kshetriya Gramin Bank in terminating the services of Shri Harish Kumar Bhutda S/o Shri Ram Kishan Bhutda is legal and justified? If not, to what relief the workman is entitled?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 3/1 to 3/8. The case of Ist party is that he was initially appointed to the post of supervisor vide order dated 7-6-84 in pay scale Rs. 925-1500 in establishment of IInd party. Though he was employed as supervisor but he was discharging duties of clerical nature. That he had no power to grant leave to supervise subordinate staff and take disciplinary action against the Bank. That he was discharging duties of workman under I.D. Act. He claims to be covered as workman under Section 2(s) of I.D. Act.
3. That he was appointed on probation of 2 years vide order dated 20-6-84. He was found medically fit. However the IInd party Bank wanted to accommodate some other officer and therefore wanted to get rid of the applicant. It is alleged that with the intention of terminate him, conspired case was prepared against him on 28-1-86, no enquiry was conducted in respect of the charges. He was

advised to bring the standard of his working upto the level. That he had completed his probation. Prior to completion of his probation, no letter was issued for extension of his probation. That he worked continuously w.e.f. 2-7-84 to 1-1-86 without break. During probation period, he was on leave. His probation was extended for one month as per order dated 27-11-86. Again his probation was extended for two months as per order dated 17-1-87. That he was in service of IInd party for two years, 9 months and 21 days continuously. That the IInd party making request to clause 8 of the Nimar Kshetriya Gramin Bank Staff Service Regulations 1983 terminating his services without assigning reasons or with-holding enquiry. Workman submits that termination of his services amounts to retrenchment under Section 2 (oo) of I.D. Act. Said retrenchment is in violation of Section 25-F of I.D. Act. Workman has referred to ratio held in various cases decided by Hon'ble High Courts. He contends that termination of his service amounts to retrenchment under Section 2(oo) of I.D. Act. His services are illegally terminated violating Section 25-F of I.D. Act is illegal. He has not received any adverse communications. On such contentions, workman prays for his reinstatement with consequential benefits.

4. Management filed Written Statement at Page 6/1 to 6/8. Management submits that Ist party workman was appointed as Officer vide order dated 7-6-84 in the Bank on probation period was not satisfactory. His probation was extended vide order dated 18-6-86 for 154 days. Ist party did not show improvement during probation period. A chargesheet was issued to him on 28-1-86. Reply was given to the chargesheet by Ist party. However on assessment of his work performance and conduct, management found he would not sit as a good officer. Ist party was found unsuitable to continue in employment of the Bank. Therefore his services were terminated as per order dated 28-3-87 giving 3 months salary in lieu of such notice.
5. Conciliation Officer had submitted Failure Report to Central Govt. The reference has been made. That Ist party workman was appointed on probation for two years. His services were terminable as per Regulation-8 during probation period. It is further submitted that the Ist party was posted as permanently as Manager at Gandhawal Branch of the Bank. He shows dereliction from duty. It is found that he remained absent from duty, in many cases subsidy was not received and some loan cases were found pending for disbursement. General Manager found that there was no follow up in loan cases and no entries were made since last 5 months in that behalf in the register maintained in the Branch. Above deficiencies were found at the time of inspection by

the General Manager. Ist party workman remained unauthorisely absent from 26-8-86 to 30-8-86. It is reiterated that the workman was on leave for 154 days during probation period. The probation period was extended. The services of workman terminated during probation period giving 3 months pay in lieu of notice. The termination of services of IInd party is as per Regulation-8 which permits termination during probation. Termination of services of Ist party falls under exception clause (bb) to Section 2 (oo) of I.D. Act. Section 25-F of I.D. Act is not attracted. It is further submitted that workman was appointed as Supervisor in the Bank in 925-1500. It is denied that he was discharging duties of clerk. That Ist party was posted as Branch Manager in Officer Cadre. The duties and functions of Branch Manager are supervisory and control over the Branch and staff working there. As such, Ist party is not covered as workman under I.D. Act.

6. Probation of workman was extended time to time and ultimately his services were terminated as good improvement was found despite of opportunity given. to him. It is not disputed that workman completed 2 years of probation. but his probation period was extended. There is no automatic confirmation as it depends on satisfactory completion of deputation period. Merely completing 240 days service does not attract Section 25-F relating to payment of retrenchment compensation. The termination is not referred invalid. It is submitted that the termination. of Ist party falls under the exception under clause (bb) of Section 2 (oo) of I.D. Act. It is submitted that reliefs prayed by workman be rejected.
7. Considering pleadings 'on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below :—

- | | |
|---|---------------------------------------|
| (i) Whether the Ist party is covered as workman under Section 2(s) of I.D. Act? | In Negative |
| (ii) Whether the action of the management of Nimar Kshetriya Gramin Bank in terminating the services of Shri Harish Kumar Bhutda S/o Shri Ram Kishan Bhutda is legal? | Doesnot Survive |
| (iii) If so, to what relief the workman is entitled to?" | Relief prayed by workman is rejected. |

REASONS

8. There is no dispute that the Ist party Harish Kumar Bhutda was appointed as Officer in IInd party Bank.

The parties are at dispute whether Ist party is workman defined under Section 2(s) of I.D. Act, The verbatim of Section 2(s) is produced as under :—

“ ‘workman’ means any person 9 including an apprentice employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge of retrenchment has led to that dispute, but doesnot include any such person—

- (i) Who is subject to the Air Force Act, 1950 or the Army Act, 1950 etc.”

9. Ist party filed affidavit of his evidence. He has stated about his appointment and continuity in duty. His probation was extended for 154 days. That his services were terminated without assigning reasons or holding any enquiry. His affidavit of evidence is silent in the duties performed by. him. Though in statement of claim, workman has stated that though he was appointed as Officer, he was performing duties of clerical nature. His above contentions do not find place in his affidavit of evidence. In his cross-examination, Ist party was unable to say anything with respect to document 7/8. That he did not understand after reading document 7/22 to 7/29. He was unable to tell the name of person who was accommodated when his services were terminated.
10. Management's witness Shri Surendra Kumar Saraiya Personnel Manager of the Bank has stated in his affidavit about appointment of Ist party as Officer vide order dated 7-6-84 on probation for 2 years. His probation was extended for 154 days as per order dated 18-6-86. His further evidence is devoted about the written statement produced by the Bank that at the time of inspection, General Manager found several deficiencies in his work. In para-9 of his affidavit, witness states that workman was directly recruited on post of Officer in 950-1500. He was posted as Branch Manager through Officer cadre. The duties and functions of Branch Manager are supervisory. Branch Manager has supervisory control over the staff working there. That there are only two categories of employees in the Bank i.e. officers and employees. In Para-14 of his affidavit, he states that it is clear form order of appointment of Ist party that he was appointed in Officer cadre was observing his duties as Branch Manager in various branches. In leave application written by him, he himself has written his designation as Branch

Manager. Ist party handed over charge to Shri Anil Kumar Patel. In his cross-examination, management witness says no action was taken on charge sheet issued to the Ist party. Ist party was absent for 154 days. In para-35 of his evidence, management's witness says that the Branch Officer had given training to Ist party as clerk, field officer. He was unable to tell their names. In para-40 of his evidence, management witness says Ist party had power to sanction IRDP loan. The circular in that regard was issued. It is denied that power to sanction IRDP Loan was with headquarter. In para-44 of his evidence, management's witness, says that application for leave submitted to the Manager i.e. clerk and peon. Manager has power to sanction leave of clerk and peon. As it is very old matter, record is not available. That Ist party was given independent charge of Branch Manager. The documents are produced on record. He had power to grant leave as per the circular. The evidence of management's witness about appointment of Ist party as Officer, he was posted as Branch Manager independently. Ist party had power to sanction leave application of clerk and peon is not shattered. The documents Exhibit M-10 is addressed to Ist party as Branch Manager Sunderdev. Exhibit M-11 is also addressed to Ist party as Branch Manager, 11-A, 12, 11-B, 12-A, 11-C, 12-B, 11-D, 12-C, 13 & 12-D are addressed to Ist party's Branch Manager and bears his endorsement. Documents 11-E is also addressed to Ist party as Officer, Branch Gandhiwal.

11. Learned counsel for 1st party Mr. Shashi on the point whether Ist party is covered as workman under Section 2(s) relates on ratio held in

“Case of Sunita, B. Vatsaraj and Karnataka Bank. Ltd. and another reported in 2001-III-LLJ-494. His Lordship held after analyzing evidence on record and the decisions, the High Court concluded that the petitioner though designated as an Officer and entrusted with powers under a power of Attorney, she was infact left to the situation of carrying out the work of clerical nature, no doubt including the checking up of work done by the other workers in her own section. The Tribunal had misdirected itself in appreciating the evidence and hence the impugned award could not be sustained.” From reading of Para-8 of judgment it is seen that it was admitted position that in absence of the Branch Manager, the petitioner had worked as Manager of the Bandra Branch.”

The facts of present case are not comparable. It is not case of workman that he was working as Branch Manager would be additional charge or power of

Attorney etc. Though in his statement of claim, he tried to plead that he was doing clerical duties despite his appointment as officer but his affidavit of evidence is absolutely silent what kind of duties he was performing. On the other hand, documents discussed above find clear that his designation is Branch Manager as he had acknowledged those documents. Therefore ratio cannot be applied to the present case. The copies of awards in R/1/07, R/97/01 and R/114/07 produced on record cannot be beneficially considered. In view of the evidence discussed above. For above reasons, I hold that the Ist party has failed to prove that he is workman under Section 2(s) of I.D. Act. Therefore, I record my finding in Point No.1 in Negative.

12. Point No. 2 In view of my finding on point No.1, the Ist party has failed to prove that he is covered as workmen under Section 2(s) of I.D. Act the protection of provisions under I.D. Act is not available to the Ist party. I record my finding on Point No. 2 as doesnot survive. In view of my finding in Point 1 & 2, workman is not entitled to relief prayed by him. Accordingly I record my finding in Point No. 3.
13. In the result, award is passed as under :—
- (1) Ist party is not a workman, he is not entitled to protection under Section 2(s) of I.D. Act.
 - (2) Action of the management of Nimar Kshetriya Gramin Bank in terminating the services of Shri Harish Kumar Bhutda S/o Shri Ram Kishan Bhutda is legal.
 - (3) Relief prayed by workman are rejected.

R. B. PATLE, Presiding Officer

नई दिल्ली, 5 अगस्त, 2013

का.आ. 1842.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इन्दौर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 156/99) को प्रकाशित करती है जो केन्द्रीय सरकार को 1-8-2013 को प्राप्त हुआ था ।

[सं. एल-12012/552/98-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 5th August, 2013

S.O. 1842.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 156/99) of the Central Government Industrial Tribunal/Labour Court, Jabalpur as shown in the Annexure in the Industrial

Dispute between the management of State Bank of Indore and their workmen, received by the Central Government on 1-8-2013.

[No. L- 12012/552/98-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM LABOUR COURT, JABALPUR

No. CGIT/LC/R/156/99

Presiding Officer : SHRI R.B. PATLE

The Asstt. General Secretary,
Akhil Bhartiya Adhinasth Bank
Karmchari Sangh,
Central Office, Huzrat Pul,
Opp. Ashoka Palace, Lashkar,
Gwalior

... Workman

Versus

The Asstt. General Manager,
State Bank of Indore,
Regional Office,
Modi House,
Jhansi Road, Gwalior

... Management

AWARD

Passed on this 8th day of July, 2013

1. As per letter dated 19-4-99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. L-12012/552/98/IR (B-I). The dispute under reference relates to:

“ Whether the action of the management of Asstt. General Manager, State Bank of Indore in not paying the special allowance of chowkidar in respect of Shri Dilip Kumar Chaturvedi w.e.f. 15-3-95 is justified? If not, to what relief the workman is entitled for?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 2/1 to 2/2. The case of Ist party workman is that he is posted as waterman/chowkidar in Patankar Branch of the State Bank of Indore at Gwalior. That as per Bipartite settlement between management and recognized Union, in case the office/branch of the bank where three or more than three watchmen are posted, one of them will be appointed as Head watchman and will be paid Rs. 46 per month. Since there are three watchman in the branch and the Ist party workman being the senior most amongst them is entitled to be designated as Head watchman. That

he is entitled to allowance Rs. 46 per month from 15-3-95 till the agreement came in force. That workman and Union had submitted several representations to the management for pleading the allowance. Management did not pay allowance from 15-3-95. Therefore the dispute was raised.

3. IInd party filed Written Statement at page 7/1 to 7/4. Case of IInd party is that workman Dilip Kumar Chaturvedi was working as chowkidar/peon in Lashkar branch of the State Bank of Indore at Gwalior. Prior to 29-9-97. The State Bank of Indore is having another branch at Maharajpur in Gwalior where additional posts of subordinate branch was considered necessary. That it was decided to post one of the subordinate employee at Maharajpur branch for smooth function. The names of employees working as subordinate cadre were shown 'as — Shri D. R. Sharma, head peon, Shri R.C. Jatav, Daftari, Shri S. Dhanelia, Cash Peon, Shri J. C. Pal, Cash Peon, Shri D. K. Chaturvedi, watchman-cum-peon, Shri P. S. Sengar, Peon/Farrash/ Chowkidar, Shri Rakesh Garg, Peon/Chowkidar, Smt. Pushpa Devi, Peon/farrash. That Ist party workman Dilip Kumar Chaturvedi was not holding allowance carrying post either at Lashkar branch. On his transfer to Maharajpur branch, he was not entitled to special allowance. He was not holding special allowance post. That the representation made by the Union considering the request Ist party workman was transfer from Kampu branch on 24-10-97. Another employee from Kampu branch was transferred to Maharajpur branch. Under VIth Bipartite Settlement, the service conditions or the subordinate staff are covered. The applicant is not entitled to special allowance. That as per the VIth Bipartite settlement, there is no such post in the name of Head watchman in the Bank. Therefore Ist party workman employed as chowkidar is not entitled to such allowance. That Ist party workman claimed where there are 3 or more watchman, head watchman is entitled to allowance Rs.46. Ist pany workman posted at Kampo branch. There are six sub staffs working in Kampo branch. Ist party workman working as peon cum farrash is not entitled to special allowance. On such grounds, IInd party prayed for rejection of claim.
4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below :—

(i) Whether the action of In Affirmative
the management of Asstt.
General Manager, State Bank
of Indore in not paying the
special allowance of chowkidar

in respect of Shri Dilip Kumar
Chaturvedi w.e.f. 15-3-95 is legal?

(ii) If so, to what relief the
workman is entitled to?"

Relief claimed by
workman is rejected.

REASONS

5. No evidence is adduced by workman to substantiate his claim for special allowance working as watchman. The evidence, of 1st party workman was closed on 18-2-2008.
6. IInd party management filed affidavit of evidence of witness Shri Rangnath Kuiya, Asstt. General Manager. He has stated the facts covered in the Written Statement filed by the management of IInd party. Management witness was not cross-examined. His evidence remained unchallenged. I don't find reason to disbelieve his evidence. Considering that workman failed to adduce evidence in support of his claim and the unchallenged evidence of management's witness, I record my finding in Point No.1 in Affirmative.
7. In the result, award is passed as under :—
 1. The action of the management of Asstt. General Manager, State Bank of Indore in not paying the special allowance of chowkidar in respect of Shri Dilip Kumar Chaturvedi w.e.f. 15-3-95 is legal.
 2. Relief prayed by workman is rejected.

R. B. PATLE, Presiding Officer

नई दिल्ली, 5 अगस्त, 2013

का.आ. 1843.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 161/2001) को प्रकाशित करती है जो केन्द्रीय सरकार को 1-8-2013 को प्राप्त हुआ था ।

[सं. एल-12012/55/2001-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 5th August, 2013

S.O. 1843.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 161/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of State Bank of India and their workmen, received by the Central Government on 1-8-2013.

[No. L- 12012/55/2001-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/161/2001

Presiding Officer : SHRI R.B. PATLE

Smt. Shakunbai,
W/o Shri Vishnu Prasad,
R/o Bhama Ward,
Near Nirmal Medical Store,
Vijay Colony, Gadarulada,
Distt. Narsinghpur (MP)

...Workman

Versus

The Branch Manager,
State Bank of India,
Branch Gadarulada,
Distt. Narsinghpur (MP)

...Management

AWARD

Passed on this 9th day of July, 2013

1. As per letter dated 16-10-2001 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. L-12012/55/2001-IR (B-I). The dispute under reference relates to:

“ Whether the action of the management of State Bank of India, Gadarwada Branch, Distt. Narsinghpur in terminating the services of Smt. Shakunbai W/o Vishnuprasad w.e.f. 18-11-96 is justified? If not, what relief she is entitled to?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 4/1 to 4/3. The case of workman is that he was daily rated employee of IInd party working from 12-2-96 to 19-11-96. That services of 1st party were terminated by the department. The termination was followed by Conciliation proceeding and ultimately the dispute between parties is referred to this Tribunal. That the services of workman were terminated without giving opportunity of hearing. No notice was issued. Procedure was not followed. The termination is illegal, arbitrary and malafide. That the workman was serving with devotion with unblemished record. That the record about payment of salary is in custody of the management. The management be directed to produce the record.
3. IInd party management filed Written Statement at Page 6/1 to 6/6. It is contended that failure report was submitted by ALC, Jabalpur. Despite of it, the

reference has been made. The engagement of 1st party workman was on daily wage basis based on need of the work depending upon exigency of work and only for a period of three hours per day. The employment of workman cannot be treated as employment in service of the Bank. There is no question of violating provision of Section 25-F. The non-engagement of 1st party workman is not covered as retrenchment but falls under the provisions of Section 2(o) (bb) of I.D. Act. The violation of Section 25-F is denied. Workman has not completed 240 days continuous service in any of the year. IInd party has reiterated that the engagement of 1st party workman cannot be termed as employment in the Bank. All the other contentions of workman about violation of provision of I.D. Act are denied. 1st party workman is not employee for purpose of Section 25-B of I.D. Act. IInd party prayed for rejection of the claim.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below :—

(i) Whether the action of the management of State Bank of India, Gadarwada Branch, Distt. Narsinghpur in terminating the services of Smt. Shakunbai W/o Vishnuprasad w.e.f. 18-11-96 is legal? In Affirmative

(ii) If so, to what relief the workman is entitled to? Relief prayed by workman is rejected.

REASONS

5. Workman is challenging legality of termination of service by IInd party. However 1st party workman has failed to adduce any evidence in support of his claim. Management has filed affidavit of evidence of Shri Naresh Kumar Agrawal, Chief Manager, SBI, Gadarwada Branch, Distt. Narsinghpur. Management witness has stated most of the facts pleaded in Written Statement filed by IInd party. It is specifically stated by the witness that the workman has not completed 240 days in any of the calendar year. His evidence remained unchallenged. I do not find reason to disbelieve his evidence as the workman failed to adduce evidence in support of his claim and to prove that the action of management terminating his service is illegal. I record my finding in Point No.1 in Affirmative.
6. In the result, award is passed as under :
1. The action of the management of State Bank of India, Gadarwada Branch, distt. Narsinghpur in terminating

the services of Smt. Shakunbai W/o Vishnuprasad w.e.f. 18-11-96 is legal.

2. Relief prayed by workman is rejected.

R. B. PATLE, Presiding Officer

नई दिल्ली, 5 अगस्त, 2013

का.आ. 1844.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नई दिल्ली के पंचाट (संदर्भ संख्या 117/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 5-8-2013 को प्राप्त हुआ था।

[सं. एल-41011/67/2012-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 5th August, 2013

S.O. 1844.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 117/2012) of the Central Government Industrial Tribunal/Labour Court No. 1, New Delhi as shown in the Annexure in the Industrial Dispute between the management of Northern Railway and their workmen, received by the Central Government on 5-8-2013.

[No. L- 41011/67/2012-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

**BEFORE DR.R. K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NO.1, KARKARDOOMA COURTS COMPLEX, DELHI**

I.D. No. 117/2012

The State General Secretary,
CITU,
Local Bus Stand. Rajpur Road.
Dehradun

...Workman

Versus

1. The Divisional Railway Manager,
Northern Railway,
Moradabad (U.P)

2. Sr. Divisional Personal Officer,
Northern Railway,
Moradabad (U.P)

...Management

AWARD

Shri Narayan Singh was working as Shed Man with Northern Railways (in short the Railways), from where he superannuated from service. Pension was sanctioned in

his favour. After some time, Shri Narayan Singh breathed his last. He was survived by his widowed daughter. She raised a demand with the Railways seeking family pension in her favour. Her demand was not conceded to. She approached Centre of Indian Trade Union (in short the union) for redressal of her grievances. The union took up her cause as their own and raised an industrial dispute before the Conciliation Officer. Since the Railways contested the claim, conciliation proceedings ended into failure. On consideration of failure report, submitted by the Conciliation Officer, the appropriate Government referred the dispute to this Tribunal for adjudication, vide order No. L-41011/67/2012-IR(B-I), New Delhi dated 24.09.2012, with following terms:

“Whether the action of the management of Northern Railway Moradabad in not granting family pension to widowed daughter of late Shri Narayan Singh, Ex-Shed Man, Northern Railway, Dehradun, is legal and justified? To what relief the concerned workman is entitled?”

2. In the reference order, appropriate Government issued directions to the party raising the dispute to file claim statement, complete with relevant documents, list of reliance and witnesses with the Tribunal within 15 days of receipt of the reference order and to provide copy of such statement to the opposite party. Despite directions, so issued, claimant or the union opted not to file claim statement before the Tribunal.

3. Notice was issued to the General Secretary of the union at the address provided in the reference order on 16.10.2012 by registered post calling upon them to file claim statement on or before 07.11.2012. Another notice was sent to the union by registered post on 12.11.2012 calling upon them to file their claim statement on or before 05.12.2012. None came forward on behalf of the union to file claim statement. Yet another notice was sent to the union by registered post on 12.02.2013 calling upon it to file claim statement on or before 08.03.2013. Last notice was sent to the union by registered post on 11.03.2013 calling upon it to file its claim statement on or before 08.04.2013. Neither the aforesaid postal article was received back nor it came to light that postal services remained affected during the period, referred above. Therefore, every presumption lies in favour of the fact that the aforesaid notices were served on the union. Despite service of the notices, referred above, the union opted not to file its claim statement.

4. Reference order raises a question as to whether action of the Railways in not granting family pension to the widowed daughter of Shri Narayan Singh is legal and justified. Therefore, it is evident that onus is there on the Railways. Consequently, the Railways was called to file its response to the reference order. On compliance of the directions, response was filed by the Railways mentioning

therein that this Tribunal has no jurisdiction to entertain this dispute in view of provisions of Administrative Tribunals Act, 1985. Except this jurisdictional issue, the Railways opted not to present any factual proposition in the matter.

5. Arguments were heard at the bar. Shri Man Mohan Singh, authorized representative, advanced arguments on behalf of the Railways. As projected above, none came forward on behalf of the claimant or the union to present facts. I have given my careful considerations to the arguments advanced at the bar. My findings on issues involved in the controversy are as follows:

6. The only contention advanced by Shri Man Mohan Singh is that this Tribunal has no jurisdiction to entertain the dispute, in view of the provisions of Administrative Tribunals Act, 1985. Unfortunately, submissions made by Shri Man Mohan Singh are not in consonance with provisions of the aforesaid Act. The Administrative Tribunals Act, 1985 saves jurisdiction of this Tribunal to adjudicate the matter. For the sake of convenience, provisions of Section 28 of the said Act are reproduced thus :

“28. Exclusion of jurisdiction of courts except the Supreme Court —

On and from the date from which any jurisdiction, powers and authority becomes exercisable under this Act by a Tribunal in relation to recruitment and matters concerning recruitment to any Service or post or service matters concerning members of any Service or persons appointed to any Service or post, no court except —

(a) the Supreme Court; or

(b) any Industrial Tribunal, Labour Court or other authority constituted under the Industrial Disputes Act, 1947 (14 of 1947) or any other corresponding law for the time being in force,

shall have or be entitled to exercise any jurisdiction, powers or authority in relation to such recruitment or matters concerning such recruitment or such service matters.”

7. Bare perusal of the provisions of Section 28 of the Administrative Tribunals Act, 1985 makes it apparent that jurisdiction of this Tribunal to adjudicate industrial disputes has been saved by the aforesaid Act. Resultantly, it is evident that objection taken by the Railways, relating to jurisdiction of this Tribunal, is uncalled for. Resultantly, the said objection is, hereby, brushed aside.

8. Railway Services (Pension) Rules 1993 (in short the Rules) detail parameters for grant of pension or family pension when a railway servant retires or is retired or is discharged or is allowed to resign from service or dies, or

the case may be. Rule 3(9) defines “family pension” to mean family pension, admissible under rule 75 of the Rules. Rule 75 narrate that there is Family Pension Scheme for Railway Servants 1964 (hereinafter referred to as the Scheme). The Scheme provides parameters for grant of pension or family pension to the railway servants or their dependents in case of death of the former, as the case may be. Rule 19(b) of the said scheme defines ‘family’ for the purpose of grant of family pension. For the sake of convenience, the said definition is extracted thus :

- (b) ‘family’, in relation to railway servant, means:
- (i) wife in the case of a male railway servant or husband in the case of a female railway servant;
 - (ii) a judicially separated wife or husband, such separation not being granted on the ground of adultery and the person surviving was not held guilty of committing adultery;
 - (iii) son who has not attained the age of twenty-five years and unmarried daughter who has not attained the age of twenty five years, including such son and daughter born after retirement or adopted legally;

9. As pointed out above, unmarried daughter who has not attained the age of twenty five years is entitled to family pension. A daughter becomes ineligible for family pension from the date she gets married, as provided by rule 6(2) of the said scheme. Thus, it is evident that a daughter becomes ineligible for family pension when she gets married. After her marriage, a daughter cannot revert to the family of the railway servant for the purpose of family pension, despite the fact that she becomes a widow. Thus it is evident that a widowed daughter is not entitled to family pension, under the provisions of the scheme, referred above.

10. Appropriate government referred the question as to whether widowed daughter of Shri Narayan Singh is entitled to family pension. In view of the above discussions, it is apparent that widowed daughter is not entitled to family pension. In such a situation, refusal of the claim of the widowed daughter of Late Shri Narayan Singh for grant of family pension is neither illegal nor unjustified. Action of the Railways in not granting family pension to widowed daughter of Shri Narayan Singh is found to be in consonance with the provisions of the scheme, referred above. Except the scheme, there are no other provisions for grant of family pension in the Rules. Under these circumstances, it is concluded that widowed daughter of Shri Narayan Singh is not entitled to any relief. Reference is answered, accordingly. The award be sent to the appropriate Government for publication.

Dated : 24-7-2013

Dr. R. K. YADAV, Presiding Officer

नई दिल्ली, 5 अगस्त, 2013

का.आ. 1845.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स ईसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 34/2002) को प्रकाशित करती है जो केन्द्रीय सरकार को 5-8-2013 को प्राप्त हुआ था।

[सं. एल-22012/1/2002-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 5th August, 2013

S.O. 1845.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 34/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of Madhavpur Colliery, M/s. Eastern Coalfields Limited and their workmen, received by the Central Government on 5-8-2013.

[No. L- 22012/1/2002-IR (CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

Present : Sri Jayanta Kumar Sen, Presiding Officer

Reference No. 34 of 2002

Parties : The management of Madhavpur Colliery of
M/s. ECL, Burdwan

Vs.

The Gen. Secy., KMC, Asansol, Burdwan
(WB)

Representative :

For the Management : Sri P. K. Das, Ld. Advocate

For the Union : Sri Rakesh Kumar, Ld.
(Workman) Representative

Industry : Coal

State : West Bengal

Dated : 07-06-2013

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its Order No. L- 22012/1/2002-IR(CM-II) dated 14.08.2002 has been pleased to

refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Madhavpur Colliery of M/s. Eastern Coalfields Limited in not providing employment to Sh. Raghu Nunia, dependant of Late Durga Nunia, C.C.M. Helper is legal and justified? If not, to what relief the dependant of the workman is entitled to ?”

Having received the Order of Letter No. L-220121/1/2002-IR(CM-II) dated 14.08.2002 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 34 of 2002 was registered on 10.09.2002 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Sri Durga Nunia was working as C.C.M. Helper in Madhavpur Colliery of M/s. ECL as permanent employee was suffering from T.B. and was treated in T.B. Hospital, Searsole, Kunustoria Area of ECL and during treatment he died on 19.06.98. Photocopy of Identity Card of Sri Durga Nunia (No. 13482, Form ‘B’ No. 1115), treatment paper of ECL Hospital and Death Certificate granted by the office of Medical Superintendent, T.B. Hospital, Searsole filed by the Union on behalf of Sri Raghu Nunia who claimed job on compassionate ground as dependant of Late Durga Nunia.

On perusal of the record and the documents filed on behalf of the dependant Sri Raghu Nunia S/o Late Durga Nunia that Smt. Saraswati Nunia W/o Late Durga Nunia has filed a petition before the Agent Madhavpur Colliery on 13.07.98 for providing employment to her son Sri Raghu Nunia against the death of her husband as per Schedule of NCWA-V and on the same day (13.07.98) Sri Raghu Nunia has also applied for employment on compassionate ground due to death of his father Sri Durga Nunia. On perusal of the document (W.E. VIII) which is a photocopy of the Letter dated 03.05.89 issued by Supdt. Manager, Madhavpur Colliery that Late Sri Durga Nunia was found unauthorized absent in the year 1995, 1996 and 1997 due to which he was punished by the Management and he (Sri Durga Nunia) was directed to join as “Badli-Worker” so it is apparently clear that Sri Durga Nunia was not dismissed from service by the Management and he was very well in service at the time of his death. In this case though the learned lawyer Shri Piyush Kanti Das, Advocate, appeared on behalf of the Management but he could submit written statement in this case as the Management did not co-

operate him by sending the statement of facts, documents etc. But the learned Advocate Sri Das has cross-examined the claimant Sri Raghu Nunia and on perusal of the cross-examination of the claimant I find that the main plea of the management is that as because Sri Durga Nunia was punished due to unauthorized absent and his job was degraded as “Badli-Worker” hence his son Raghu Nunia (claimant) can not claim service on compassionate ground on the death of his father Sri Durga Nunia. In my opinion this plea of the management is not sustainable, because Rule 3.3 of the Standing Order of M/s. ECL (W.E. XV) clearly shows that “Badli-Worker” is a punishment and not an order of dismissal and Letter Ref. Madh/Sr. P.O./Badli/89/576 dated 03.05.89 issued by Supdt./Manager, Madhavpur Colliery shows that Sri Durga Nunia was directed to join as “Badli-Worker”.

Hence in my opinion the action of the Management of Madhavpur Colliery of M/s. Eastern Coalfields Limited in not providing employment to Sri Raghu Nunia, dependant of Late Sri Durga Nunia, C.C.M. Helper is totally illegal and not justified and accordingly the same is set aside.

Management is directed to provide employment to the claimant Sri Raghu Nunia on compassionate ground due to death of his father Sri Durga Nunia, within two months from the receipt of this Award after completing all the formalities.

ORDER

Let an “Award” be and the same is passed as per above. Send the copies of the “Award” to the Government of India. Ministry of Labour & Employment. New Delhi for information and needful.

JAYANTA KUMAR SEN, Presiding Officer

नई दिल्ली, 5 अगस्त, 2013

का.आ. 1846.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स ईसीएल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 54/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-8-2013 को प्राप्त हुआ था।

[सं. एल-22012/304/2004-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 5th August, 2013

S.O. 1846.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 54/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial

Dispute between the management of Eastern Coalfields Limited and their workmen, received by the Central Government on 5-8-2013.

[No. L- 22012/304/2004-IR (CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

Present : Sri Jayanta Kumar Sen, Presiding Officer

Reference No. 54 of 2005

Parties : The management of Nimcha Colliery of M/s. ECL, Burdwan

Vs.

Sri S. K. Pandey, The Gen. Secy., KMC,
Asansol (WB)

Representative :

For the Management : Sri P. K. Goswami, Ld.
Advocate

For the Union : Sri S. K. Pandey, Ld.
(Workman) Representative

Industry : Coal State : West Bengal

Dated : 21-06-2013

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its Order No. L- 12012/304/2004-IR(CM-II) dated 25.07.2005 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the order of dismissal accorded to Sh. S. N. Bhomraj by the management of Nimcha Colliery of M/s. Eastern Coalfields Limited is legal and justified? If not, to what relief the workman is entitled?”

Having received the Order of Letter No. L-22012/304/2004-IR (CM-II) dated 25.07.2005 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 54 of 2005 was registered on 17.08.2005 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and

a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

The workman S. N. Bhomraj was a permanent employee as underground Loader at Nimcha Colliery of M/s. Eastern Coalfield Limited since 13.07.1995. It is further case of the Management the workman absented from his duty w.e.f. 06.12.2000 to 19.02.2001 due to sick, and charge sheet as NC/CS.PER/25 dated 19.02.2001 and after enquiry he was found guilty by the Management and dismissed from service vide G. M. Satgram Area, Letter No. SAT/GM/PER/C/2002/665(E) dated 25.11.2002.

The learned lawyer of the Management Shri P. K. Das. Advocate has submitted that the workman did not inform the Management regarding his sick and earlier also the workman was found unauthorized absent due to which he was also punished and the workman during his cross-examination (Para-7) has admitted this fact. It has further been submitted that the workman is a habitual unauthorized absentee, hence the order of dismissal of workman taken by the Management is legal and justified.

The learned representative of the workman Shri S. K. Pandey has submitted that the enquiry was conducted exparte as no information or notice regarding enquiry was sent to the workman. It has further been submitted that the Management has taken very harsh step against the workman on the ground of absent for two months only, where as on this ground several workman were allowed to join. It has further been submitted that the workman was suffering from jaundice and he was treated by his nearby one private doctor and due to illiteracy he could not inform the management in time. It is further been submitted that the workman belongs to very poor family and due to harsh steps taken by the Management against the workman, his whole family is starving since 2002 and they are forced for begging for their livelihood which is against the principle of Natural Justice, hence necessary order may be passed so that the workman as well as his family member can be saved from starvation.

On perusal of the record I find that it is fact that the Management has taken a very harsh and extreme decision against the workman S. N. Bhomraj due to his absent of two months only and in my opinion this decision of the Management of Nimcha Colliery of M/s. E.C.L. is not legal and is quite unjustified.

Accordingly the dismissal order against the workman S. N. Bhomraj taken by the Management of Nimcha colliery of M/s. E.C.L. is hereby set aside, and the Management is directed to reinstate the workman S. N. Bhomraj immediately within one month of the notification of this Award with 50% back wages from 06.12.2000 till he joins.

ORDER

Let an "Award" be and the same is passed as per above discussion. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

JAYANTA KUMAR SEN, Presiding Officer

नई दिल्ली, 5 अगस्त, 2013

का.आ. 1847.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स ईसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, असनसोल के पंचाट (संदर्भ संख्या 82/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-8-2013 को प्राप्त हुआ था।

[सं. एल-22012/251/2004-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 5th August, 2013

S.O. 1847.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. No. 82/2005 of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of M/s. Eastern Coalfields Limited and their workmen, received by the Central Government on 5-8-2013.

[No. L- 22012/251/2004-IR (CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ASANSOL**

Present : Sri Jayanta Kumar Sen, Presiding Officer

Reference No. 82 of 2005

Parties : The management of Bansra Colliery of M/s. ECL, Burdwan

Vs.

The Gen. Secy., KMC, Asansol (WB)

REPRESENTATIVES:

For the Management : Shri P. K. Das, Ld. Advocate

For the Union : Shri Rakesh Kumar, Ld.
(Workman) Representative

Industry : Coal State : West Bengal

Dated : 03-06-2013

**SETTLEMENT AWARD IN LOK ADALAT HELD
ON 03.06.2013 AT KUNUSTORIA GUEST HOUSE**

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its Order No. L- 22012/251/2004-IR(CM-II) dated 06.07.2005 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Bansra Colliery under Kunustoria Area of M/s. Eastern Coalfields Limited in dismissing Sh. Kalosona Majhi. U.G. Loader from services is legal and justified? If not, to what relief he is entitled?"

Having received the Order of Letter No. L-22012/251/2004-IR (CM-II) dated 06.07.2005 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 82 of 2005 was registered on 17.08.05 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

The workman. Sri Kalosona Majhi is physically present with its representative Sri Rakesh Kumar. Representative of the management is also present. The workman Sri Kalosona Majhi has agreed to be reinstated without any back wages. On behalf of the management, Sri P. K. Das has made an endorsement on the settlement petition that the workman Sri Kalosona Majhi does not cover the age under memorandum of settlement and has stated that under memorandum of settlement the age should not exceed forty five years. On perusal of the case record. it appears that a photocopy of Identity Card of Sri Kalosona Majhi bearing C.M.P.F. No. 11346/ASN 37/107 is filed from which it appears that the workman was aged twenty five years on 30.05.1986. It further appears from the record that the Chargesheet issued on 12.10.93 and the workman was dismissed on 18.11.1993. So, it is apparently clear that at the time of disposal the workman was below 33 years. So in my opinion, the case of Sri Kalosona Majhi comes within the purview of memorandum of settlement. Accordingly the Settlement application is allowed and the workman is to be reinstated without any back wages.

Considering the above facts, the case is closed and accordingly it is awarded that case has been settled as per form 'H' memorandum of settlement between both the parties as an integral part of it. The terms and conditions of the settlement shall be binding upon both the parties.

Hence, it is ordered

ORDER

Let an "Award" be and same is passed as per above discussron. Form 'H' containing terms and conditions does form as an integral part of the Award. Send the copies of the award to the Govt of India, Ministry of Labour and Employment, New Delhi for information and needful. The reference is accordingly disposed of.

JAYANTA KUMAR SEN, Presiding Officer

नई दिल्ली, 5 अगस्त, 2013

का.आ. 1848.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स ईसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, असनसोल के पंचाट (संदर्भ संख्या 38/1993) को प्रकाशित करती है जो केन्द्रीय सरकार को 5-8-2013 को प्राप्त हुआ था।

[सं. एल-22012/129/1993-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 5th August, 2013

S.O. 1848.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 38/1993) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of Kumardihi Colliery, M/s. Eastern Coalfields Limited and their workmen, received by the Central Government on 5-8-2013.

[No. L- 22012/129/1993-IR (CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

Present : Sri Jayanta Kumar Sen, Presiding Officer

Reference No. 38 of 1993

Parties : The management of Kumardihi 'A' Colliery
of M/s. ECL, Burdwan

Vs.

The Jt. Gen. Secy., CMU, Ukhra, Burdwan
(WB)

REPRESENTATIVES:

For the Management : Sri P. K. Das, Ld. Advocate

For the Union : Sri M. Mukherjee, Ld.
(Workman) Advocate

Industry : Coal

State : West Bengal

Dated : 03-06-2013

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its Order No. L- 22012/129/1993-IR(CM-II) dated 23.08.1993 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Kumardihi 'A' Colliery PO : Ukhra, Distt. Burdwan, in dismissing Shri Sarayan Kora, General Mazoor vide their Letter No. BA/PD/Dis/967 dated 14/1503.1991 is justified? If not, what relief the workman is entitled to?"

Having received the Order of Letter No. L-22012/129/93-IR (CM-II) dated 23.08.1993 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 38 of 1993 was registered on 27.08.1993 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

On perusal of the record as well the evidence of the workman Sarayan Kora I find that the workman remain absent from his duty from 22.11.1989 to 06.02.1990 without giving any information to the Management and accordingly an enquiry was held and he was found guilty of unauthorized absent, and he has been dismissed from service vide letter No. BA/PD/Dis/967 dated 14/15 March, 1991.

It is the plea of the workman that due to illness he failed to remain present in duty. In para 8 of examination-in-chief the workman has stated that he was suffering from Jaundice. But I find that no Medical certificate has been filed by the workman to corroborate this fact. and in para 25 he has clearly stated that he has no Medical Certificate regarding his illness. The learned lawyer of the workman has submitted that the workman was engaged as Mazdoor at Kumardihi Colliery which is situated at a distance of 40 km. from Kalipahari where the native home of the workman is situated. It has further been submitted that the workman approached the Management to transfer him in Satgrarn Area which is nearby the residence of the workman, but in vain.

On perusal of the written statement of the Management dated 03.12.1996, I find that the Management did not mention anything about any previous adverse report against the workman regarding his presence in duty. So it is clear that the workman Sarayan Kora was punctual in his duty earlier. So, in my opinion only on the ground of absent for a short period, the Management has taken a very harsh action against the workman by dismissing him from service without giving any warning or lesser punishment, which is obviously against the principle of "Natural Justice", because by this harsh action of the Management the workman along with his whole family members were thrown on the street for the purpose of begging.

So in my opinion the action of the Management of Kumardihi 'A' Colliery of M/s. ECL in dismissing Sarayan Kora w.e.f. 19.03.1991 is totally unjustified and illegal and accordingly the same is set aside.

The Management is directed to reinstate the workman Sarayan Kora within one month from the date of receipt of Award. But the workman will not be entitled to get back wages and he should be appointed on minimum grade from the date of joining. The workman must give in writing to the Management that he will remain regular and punctual in his duty in future.

ORDER

Let an "Award" be and the same is passed as per above discussion. Send the copies of the "Award" to the Government of India. Ministry of Labour and Employment, New Delhi for information and needful.

JAYANTA KUMAR SEN, Presiding Officer

नई दिल्ली, 5 अगस्त, 2013

का.आ. 1849.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स इन्टीट्यूट ऑफ माइक्रोबीएल टेक्नोलोजी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 625/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-8-2013 को प्राप्त हुआ था।

[सं. एल-42012/187/2002-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 5th August, 2013

S.O. 1849.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 625/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure, in the Industrial Dispute between the management of

Institute of Microbial Technology and their workmen, received by the Central Government on 5-8-2013.

[No. L- 42012/187/2002-IR (CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present : Sri A. K. Rastogi, Presiding Officer

Case No. I.D. No. 625 of 2005

Registered on 24-8-2005

Smt. Sunita, W/o Late Sh. Om Prakash,
C/o Sh. G.S. Mann, Auth Rep.,
H.No. 228, Phase 3A, SAS Nagar,
Mohali

...Petitioner

Versus

The Director,
Institute of Microbial Technology,
Sector 39A, Chandigarh

...Respondent

APPEARANCES:

For the workman : Sh. J.K. Sharma A.R.

For the Management : Sh. I.S. Sidhu Adv.

AWARD

Passed on 15-7-2013

Central Government vide Notification No. L-42012/187/2002-IR(CM-II) Dated 13.3.2003, by exercising its powers under Section 10 of sub-section (1) Clause (d) and sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial Dispute for adjudication to this Tribunal :—

"Whether the action of the management of IMTEC in terminating the services of Smt. Sunita, Ex-Safai Karamchari, w.e.f. 31.7.2001 is legal and justified? If not, to what relief she is entitled to?"

As per claim statement the workman had been engaged after the death of her husband in his place on 14.8.1995 with an assurance in writing that she would continue to be employed in IMTECH through contractor, as a special case. She continued to work upto 31.7.2001 when her services were terminated by the respondent without any notice and compensation in violation of the provisions of ID Act. She had worked for more than 240 days from August 1995 to 31.7.2001 and after termination several new hands have been engaged. She had claimed her reinstatement with full back wages and continuous service.

The claim was contested by the management and it was alleged that there is no relationship of master and servant between the respondent and the workman. The workman had been engaged by a contractor who had a contract with the respondent for supplying the manpower for undertaking the work assigned to the contractor. The relationship of master and servant was denied with the deceased husband of the workman also. According to the respondent the claim has no merits.

In a rejoinder to the written statement of the respondent it was alleged that though she had been employed through contractor but as the respondent had accepted the workman deputed for its business affairs, the relationship of master and servant came into existence and therefore she is the employee of the management.

The workman in support of her case examined herself and a witness Smt. Kanta as WW1 and WW2 respectively while on behalf of management Chhering Tobden was examined. While the case was at the stage of management evidence the AR of the workman moved an application on 22.4.2010 with a request to adjourn the case either sine die or to permit him to withdraw the same as the workman is not in his contact since long. The application was however not allowed and the notices were issued by registered post to workman but the notice returned undelivered with the endorsement that the colony of the workman has been demolished by the Corporation. Under the circumstances it could not be possible to communicate with the workman and the case was ordered to proceed *ex parte* against workman on 13.8.2010.

I heard the learned counsel for management and perused the evidence on record. It is important to note that workman has alleged the relationship of employer and employee between the respondent and herself but it is clear from her pleadings that she had been engaged through a contractor and since she had been allowed to work hence she claims to be the employee of the respondent. She had also relied on a note marked 'B' in her statement; according to which, she had been assured on humanitarian ground to continue through contractor as a special case. This is purportedly signed by Director IMTECH. From this note it is clear that the deceased husband of the workman was an employee of the Contractor and she only had been assured by IMTECH the continuous engagement through contractor. Obviously she was not the employee of the respondent and if her services had been terminated then this note cannot provide any protection to her. The learned counsel for management argued that the affidavit of the management witness remains uncontroverted and it has been stated in the affidavit that the workman was deployed by the contractor as part of the manpower supplied by him to undertake the work and she worked as part of the manpower supplied by the different contractors from time to time. The management witness has also tendered six

agreements with the different contractors marked Annexure 1 to 6 in the affidavit of the management witness.

I agree with the learned counsel for management that there is no evidence to prove that the workman was an employee of the management hence the question of termination of her service by the management does not arise. The reference is answered against her. She is not entitled to any relief.

ASHOK KUMAR RASTOGI, Presiding Officer

नई दिल्ली, 6 अगस्त, 2013

का.आ. 1850.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 135/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-8-2013 को प्राप्त हुआ था।

[सं. एल-12012/86/2001-आईआर (बी-II)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 6th August, 2013

S.O. 1850.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (CGIT/LC/R/No. 135/2001) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Syndicate Bank and their workmen, which was received by the Central Government on 1-8-2013.

[No. L- 12012/86/2001-IR (B-II)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM LABOUR COURT, JABALPUR

No. CGIT/LC/R/135/2001

Presiding Officer : SHRI R.B. PATLE

Shri Bhimsen Vinodiya,
S/o Shri Rajaram Vinodiya,
R/o 32, O.C. Lines,
Cantt. Sagar (MP)

...Workman

Versus

Dy. General Manager,
Syndicate Bank, SB P.B.No. 4112,
Neptune Towers,
Opp. Nehru Bridge, Ashram Road,
Ahmedabad, Gujarat

...Management

AWARD

Passed on this 22nd day of July, 2013

As per letter dated 17-23/8/2001 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-12012/86/2001-IR(B-II). The dispute under reference relates to:

“Whether the action of the management of Syndicate Bank, Zonal Office, Ahmedabad in dismissing Shri Bhimsen Vinodiya, S/o Shri Raja Ram Vinodiya, Ex-sub Staff from service vide order dated 30-1-99 is legal and justified? If not, to what relief is the concerned workman entitled?”

2. After receiving reference, notices were issued to the parties. 1st party workman filed Statement of claim at Page 4/1 to 4/3. The case 1st party workman is that he was working with Non-applicants for 24 years. He was dismissed from service vide order dated 30-1-99 by Non-applicant No.1 for alleged misconduct. That prior to passing said order of dismissal, he was served with charge sheet dated 9-8-97, 12-1-98 for the charges against him. Enquiry conducted relating to both charge sheets was not legal and proper. Enquiry Officer did not conduct enquiry following the rules and regulations of the Bank, principles of natural justice were not followed. Applicant was not supplied documents relied in the enquiry. He did not get opportunity to cross examine witnesses of the Bank. He was not given opportunity to produce his evidence. The Enquiry Officer had not recorded his statement in enquiry. Show cause notice was not issued to him before imposing punishment of dismissal. Copy of Enquiry Report was supplied to him. The enquiry is vitiated. The findings of Enquiry Officer are perverse, illegal without supporting evidence. That the punishment of dismissal is harsh, excessive. The charge sheet is silent about is completing 24 years service. That he has not committed any misconduct. On such ground, 1st party workman submits that the punishment of dismissal is illegal. He further submits that he is not gainfully employed after dismissal from service. He prays for reinstatement with back wages.

3. IInd party filed Written Statement at Page 7/1 to 7/26. IInd party submits that the workman committed misconduct. The details of the misconduct are given that Sagar Branch received 100 PCC. Said PCC pad was used for issuing PCC FDs during 1995-96. The Branch had not issued PCC Sl. No. 362737 to 362742. That in September 1996, customer Sanjay Kumar presented PCC receipt No. 362742 for Rs. 10,000 for encashment before maturity. On verification, it was noticed that Receipt was not issued. The PCC No. 362737 to 362742 were missing from the branch. The above number of PCC were not used by the Bank. Those missing PCCs were misused by the delinquent workman. That amount of Rs. 10,000 was transferred from

S.B. Account of Dr. D.P. Nema as the delinquent workman borrowed said amount. The amount was credited to his account. That delinquent workman has pilfered 6 PCCs numbered above and fraudulently issued PCC No. 362742 to Shri Sanjay Kumar accepting Rs. 10,000 in cash.

4. That in March 1997, Smt. Shanti Devi Yadav approached Sagar branch with PCC No. 362740 for Rs. 3726 maturing on 9-6-98. She has requested Bank to confirm genuineness. On verification, it was found that said receipt was not issued by the Branch. The said PCC was out of the misplaced numbers of PCC. That Smt. Shanti Devi informed that she invested Rs. 3000 her husband has approached the Bank in December 1995 for renewal. The receipt was tendered to Bank. The delinquent workman promised for renewal and said that receipt would be sent to her residence. That delinquent had sent deposit receipt at her residence.

5. Other charge against workman was he fraudulently closed PCC 3540 for Rs. 3000 on 12-12-1995 without knowledge or consent of Shri Hazarilal Yadav and Smt. Shantidevi Yadav. He discharged said PCC for receiving maturity proceeds. That delinquent workman issued PCC No. 362740 for Rs. 3726 to Shri Hazarilal Yadav and Smt. Shanti Devi Yadav. Said PCC receipt was one of the stolen receipt by the workman himself. The writing on said PCC is of the delinquent workman and signature of Manager/Officer on the PCC receipt is forged.

6. Next charge is around April 1997, Smt. Deoki Devi Yadav presented PCC No. 362739 for Rs. 10,000 to the branch to confirm the genuineness of the same. The Bank record does not reveal that the same had been issued by the Branch and that the same was one of the missing PCCs of the branch. Smt. Deoki Devi Yadav informed that she had earlier invested Rs. 10,000, she was received PCC No. 27995/1784. The investigation revealed that the delinquent workman arranged LD 99/91 for Rs. 7500 against said VCC in name of Deoki Devi Yadav. The writing was of delinquent workman. He had signed on it having received amount on the reverse. That amount of Rs. 14,463 was adjusted at the time of maturity. Amount of Rs. 10,000 was received by the delinquent workman. That Smt. Deoki Devi Yadav informed that she was introduced by Shri Bhimsen and handover receipt No. 279755/1784 for Rs. 10,000 duly discharged on revenue stamp saying that if she delivered the receipt, she would get monthly interest which would be created to her daughter's name every month. That delinquent workman fraudulently issued PCC No. 362739/1784 for Rs. 10,000 to Smt. Deoki Devi Yadav. Six PCC receipts were stolen by him. That delinquent workman fraudulently closed VCC No. 279755/1784, he has pilfered six PCCs receipts bearing Nos. 362737 to 362742. The chargesheet was issued to him. Corrigendum was issued subsequently on 8-8-97, its copy was served on the delinquent workman. That Enquiry Officer was appointed. The evidence of management's witness was recorded. The delinquent workman was

represented by Shri Gunashekharan and cross-examined the management's witness. The enquiry was conducted following principles of natural justice. The details of Enquiry Proceedings are exhaustively narrated in Written Statement. After receiving showcause notice and reply given by the delinquent, considering gravity of the misconduct, the Disciplinary Authority imposed punishment of dismissal as charges were reported proved by the Enquiry Officer. The delinquent had committed misappropriation of amount causing loss to the Bank. The PCCs were fraudulently used causing loss to the Bank.

7. Supplementary chargesheet was also issued to the workman. On said chargesheet, enquiry was conducted, evidence was recorded, enquiry was conducted properly following principles of natural justice. The misconduct against delinquent workman is proved. After considering report of the Enquiry Officer, reply to the showcause notice issued for dismissal was imposed for serious conduct committed by the delinquent workman. The IInd party submits that the order of dismissal is legal, proper and prays for rejection of the relief prayed by workman.

8. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

“(i) Whether the action of the management of Syndicate Bank, Zonal Office, Ahmedabad in dismissing Shri Bhimsen Vinodiya, S/o Shri Raja Ram Vinodiya, Ex-sub Staff from service vide order dated 30-1-99 is legal? In Negative

(ii) If so, to what relief the workman is entitled to? As per final order.

REASONS

9. As per order dated 8-11-2010, enquiry conducted against workman is held legal. The issues framed in the matter on 9-9-06 relates to the legality of enquiry. The next issue is whether the management is entitled to prove misconduct and Issue no. 2 is to what relief the workman is entitled. In view that enquiry is found legal, management is not required to adduce further evidence to prove the misconduct alleged. The enquiry proceedings itself needs to be considered whether the evidence in enquiry adduced by management, is sufficient to prove misconduct against the workman. The record of enquiry proceeding is produced. Management has examined only witness Shri R.A. Fernandez, Vigilance Officer. Said witness had investigated the entire matter from Bank record, recording statements of the customers, verifying the payments, obtain copies of the Accounts. The amount withdrawn

from account of Customers and deposit in Account of the delinquent workman. However it is necessary to state that he is not witness to any of the incident, he was not working in the Bank, he was not conversant with the handwriting or signatures of the customers, the concerned Bank employees, Managers. Management Witness Shri R.A. Fernandez recorded statements of witness Shri Hazarilal Yadav, Smt. Shantidevi Yadav and Smt. Deoki Devi Yadav. Those statements are marked as Exhibit MEX 24 to 27. The statement of so called customers are also considered by the Enquiry Officer while submitting his report. To make it clear that the registers about receiving PCC, VCC or any record about views of the same is not produced in Enquiry Proceedings. What opinion Mr. Fernandez have arrived to conclusion that the relevant number of six PCCs, VCCs were missing and misused by the delinquent worker. The documents MEX-14, 15, 16, 17 to 23 are signed by customers and Branch Manager. However evidence of management's witness Shri R.A. Fernandez shows that the signatures were forged, documents were misused, amount was received by the delinquent employee, how the Manager was not knowing about the missing PCCs, VCCs and at the time of payment of amount made. The statement of witness of management appears of universal character. He is telling everything about genuineness of documents, misusing of documents, forgery of signatures. His evidence is based on information received from the staff working in the Bank. Any of them is not examined as witness in the enquiry. The witness Shri Hazarilal Yadav, Smt. Shantidevi Yadav and Smt. Deoki Devi Yadav were not examined in the proceedings. In absence of their evidence, there allegations about receiving amount by the delinquent employee at the time of renewal or after maturity can hardly be believed.

10. Learned counsel for Ist party workman Shri S. Mishra relies on judgment in

Case of Umakant Dwivedi versus State of MP and others in W.P. No. 7622/2005 by M.P. High Court, Jabalpur. In para-14 of the judgment their Lordship dealing with ratio held in case of State of Mysore and others versus Shivbasappa Shivappa Makapur, AIR 1963-SC-375 observed that the statement given by a witness previously behind the back of the party, is required to be put to him again in the disciplinary proceedings and is required to be admitted in evidence and thereafter a copy thereof should be given to the party and he should be given an opportunity to cross-examine him. It has further been held that the rules of natural justice are sufficiently complied with when previous statements given by the witnesses are read over to them, marked on their admission, copies thereof are given to the party and he is given an opportunity to cross-examine them.

In para-15 their Lordship dealt with ratio held in case of Kuldeep Singh versus The Commissioner of

Police and others, AIR 1999-SC-677, held in the case that reasonable opportunity as contemplated by Article 311 (2) of the Constitution of India has to be provided which means "Hearing" in accordance of principles of natural justice which requires that all the witnesses in the departmental enquiry shall be examined.

In para-16 in case of *Shri A.Sudhakar Versus Post Master General, Hyderabad* and another 2006(4) SCC 348, it was held that the procedural requirements based on the principles of natural justice embodied under rule 311 (2) of the Constitution of India, which are required to be followed in disciplinary proceedings.

In para-18, their Lordship considered ratio held in case of *Rajkishore Pandey versus Rewa Sidhi Gramin Bank and others* reported in 1989 MPLJ 530. Ratio held in this case that a person can be held to be guilty in Departmental Proceedings only on the basis of the evidence recorded during the Departmental Proceedings itself and not on the basis of the statement of witnesses recorded during a preliminary fact finding enquiry unless and until the same witnesses are again examined in the regular departmental enquiry and reiterate the same statements against the delinquent during the Departmental Proceedings.

In present case any of the witnesses whose statements were recorded were not examined in the Departmental Enquiry, any employee from the Bank was not examined, the customers were not examined in the enquiry. The evidence of management's witness *Shri R.A. Fernandez* is on the point that he had investigated about the matter and he found that the PCCs, VCCs were missing and same were misused by the workman. The evidence of management's witness on all the matters deposed by him cannot be said legal as his evidence is based on information received from other persons. His evidence is hear-say basis. On his evidence, misconduct alleged against delinquent employee cannot be proved.

11. Learned counsel for IInd party Mr. Shashi relies on ratio held in

"Case of *Gurnit Singh Viku versus Punjab and Sind Bank and others* reported in 2011-I-LLJ-665(MT). Their Lordship held on charges of willful damage to property of Bank and involving Bank in serious loss-challenge to dismissal held not sustainable.

Next reliance is placed on ratio held in case of *Regional Manager, U.P.SRTC Etawah and others Versus Hotilal and another* reported in 2003(3) Supreme Court Cases 605. Their Lordship of the Apex Court dealing with scope of judicial review of test of proportionality. It is very limited to exceptional cases.

The court must give reasons for holding the punishment to be not commensurate with the charges.

The citation relied by IInd counsel Mr. Shashi in any of the case doesnot relate to legality of the evidence by Vigilence Officer deposing all the facts he had come across during his investigation whether evidence of such witness is legal. In my considered view, evidence of management's witness *Shri R.A. Fernandez* cannot be said legal on the points of missing PCCs and VCCs, receipts of amount, forgery of documents by delinquent employee, signature of customers on the documents produced in the Enquiry Proceedings. The management's witness was not conversant with the signatures of any of the customers, staff working in the branch. All his evidence is of hear-say character. *Shri A.K. Shashi*, counsel for IInd party relies to the point of punishment imposed in the matter when loss is caused to Bank, punishment of dismissal could not be interfered.

12. The evidence of 1st party workman in his cross-examination shows that he was desiring to examine witness *Shri Hazarilal Yadav*, *Smt. Shantidevi Yadav* and *Smt. Deoki Devi Yadav* but the Enquiry Officer told him it was not necessary. Infact all those witness who have been examined by the management for proving the alleged misconduct. The material witnesses were not examined by management of IInd party in Enquiry Proceedings. The evidence in cross-examination of management's witness *Shri Nagendranath* shows that he had not given opportunity to the delinquent himself to test velocity of witnesses *Shri Hazarilal Yadav*, *Smt. Shantidevi Yadav* and *Smt. Deoki Devi Yadav*. Though learned counsel for IInd party during course of argument emphasized that the statements recorded of the witnesses was not basis for recording finding of the Enquiry Officer. The careful reading of the Enquiry Report shows that the statements of those witnesses were proved by the management witnesses and the same were considered while submitting his report by the Enquiry Officer.

13. Next, it was argued that delinquent employee had admitted charges and therefore the findings cannot be said perverse. The witness as the management has produced Exhibit M-2 letter sent by delinquent workman dated 21-9-97 to the Dy.General Manager, Syndicate Bank. He had stated that he had vide his letter dated 5-11-95 explained the circumstances and requested him to view matter leniently. He with to further state that the management or customers has not incurred any loss out of the transaction. The copy of letter dated 5-11-96 produced in the Enquiry Proceeding was denied by delinquent employee. The defence representative had submitted in his statement that said letter was obtained

from delinquent employee at Bhopal Regional Office. The letter was not proved during enquiry proceedings. When charge was explained to workman by Enquiry Officer, he has pleaded not guilty to the charge. Therefore it is difficult to accept that employee had admitted charge and therefore there non-examination is not final. Considering the nature of evidence of management's witness Shri Fernandis he had investigated allegation against the misconduct. His evidence cannot be said legal. On his evidence, the misconduct alleged against workman cannot be proved. The findings of Enquiry Officer are therefore perverse. The punishment of dismissal of delinquent employee based on the evidence of Shri R.A.Fernandis, vigilance Officer is illegal. For above reasons, I record my finding in Point No.1 in Negative.

14. Point No.2- In view of my finding in Point No.1 findings of Enquiry Officer are perverse based on evidence not of legal character, the order of dismissal of workman needs to be quashed and set-aside. The workman would be entitled to reinstatement of service. Next question is whether the workman is entitled to back wages. Workman in his affidavit of evidence has not stated whether he is employed or un-employed after dismissal. In his. cross-examination, nothing is brought about his gainful employment. The evidence of management's witness Nagendra Nath is silent on the point. Considering the facts that since order of his dismissal, the delinquent is out of employment. It would be appropriate to allow 50 % back wages to him. Accordingly I record my finding on Point No. 2.

15. In the result, award is passed as under :-

- (1) Action of the management of Syndicate Bank, Zonal Office, Ahmedabad in dismissing Shri Bhimsen Vinodiya, S/o Shri Raja Ram Vinodiya, Ex-sub Staff from service vide order dated 30-1-99 is illegal.
- (2) IInd party is directed to reinstate workman Shri Bhimsen Vinodiya with 50 % back wages.

R. B. PATLE, Presiding Officer

नई दिल्ली, 6 अगस्त, 2013

का.आ. 1851.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स यूनियन बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, गोहाटी के पंचाट (संदर्भ संख्या 01/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 1-8-2013 को प्राप्त हुआ था।

[सं. एल-12011/57/2010-आईआर (बी-II)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 6th August, 2013

S.O. 1851.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 01/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Guwahati now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Union Bank of India and their workman, which was received by the Central Government on 1-8-2013.

[No. L- 12011/57/2010-IR (B-II)]

SUMATI SAKLANI, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GUWAHATI, ASSAM

Present : Sri L. C. Dey, M.A., LL.B., Presiding Officer, CGIT-cum-Labour Court, Guwahati

In the matter of an Industrial Dispute between :

The Management of Union Bank of India.

-Vrs-

North Eastern Region Union Bank Employees Association.

Ref. Case No. 01 of 2011

Appearances :

For the Management : Mr. B.Bhattacharjee, Manager (HR)

For the Workman : Mr. S.Chakrabarty, General Secretary, NERUBA

Date of Award : 24.7.2013

AWARD

1. This Reference was made by the Ministry of Labour & Employment, Government of India, on the Industrial Dispute raised by the North Eastern Region Union Bank Employees Association against the Management of Union Bank of India vide their Order No. L-12011/57/2010-IR(B-II); Dated : 09-12-2010. The Schedule of the Reference is as follows:

SCHEDULE

“Whether the action of the Bank management in terminating the service of Sh. B.B. Das, workmen without considering the involvement of the other responsible officers of the Bank Management for fraudulently withdrawal of money from Customers Account is justified? What relief the workman is entitled to?”

2. On receipt of the order of Reference this Reference Case has been registered and notices were served upon both the parties who appeared and contested the proceeding by filing their claim statement/written statement, adducing evidence along with documents.

3. The case of the North Eastern Region Union Bank Employees Association, (in short, NERUBEA is that on 02/08/2007 an amount of Rs. 48,000 and on 07/08/2007 another amount of Rs. 52,000 were fraudulently withdrawn from the S.B. A/C No. 5381 and S.B. A/C No. 6329 respectively from the Shillong Branch of Union Bank of India. This act of fraudulent withdrawal came to the notice of the Branch only on 10.08.2007 when the account holders enquired about withdrawal from their accounts while the official concerned immediately arranged and deposited the same to cover up the lapse. In this connection preliminary investigation carried out by the Bank on 04.09.2007 wherein some observations were made as follows:

- (i) The unused cheques returned on closure of A/c. No. 6787 was not destroyed and not entered in Cheque Book Returned Register & Destroy Register evidencing lack of proper control.
- (ii) In both the fraudulent withdrawal cases the cheques were used as loose cheques and though Loose Cheque Issue Register is maintained in the branch, there is no entry of these cheques in the register. Both these transactions were authorized by Shri Soubhik Dutta, Asstt. Manager and his signatures are there on the face of the instruments.
- (iii) Withdrawal by loose cheques were allowed without production of passbooks violating the norms of the bank.
- (iv) In both the cases drawer's signature on the instrument differs with that of signature on record on the specimen signature card. It clearly shows that the minimum basic precaution of verifying the signature was also not taken before authorizing the transactions.
- (v) No written complaint was lodged by the account holders in whose account frauds were committed.
- (vi) Since the amounts involved were refunded in both the cases there is no financial loss to the bank.

The Association contended that in respect of the above facts, the Management of Union Bank of India taking advantage of poor educational qualification of the workman Sri B.B. Das, Peon-cum-Hamal, Union Bank of India, Shillong Branch to cover up the lapse of others, with vindictive and deliberate as well as discriminate view, issued charge sheet against Sri B.B. Das on 28.09.2007 and instituted a Departmental Enquiry and finally Sri B.B. Das was dismissed from service of the Bank on 16.09.2008. But Departmental Enquiry could neither establish that Sri B.B.

Das has withdrawn the cash fraudulently from the Bank by using any cheque/instrument nor that Sri B.B. Das individually or by engaging any other prevailed upon Bank official at Shillong Branch for encashment of any cheque fraudulently. The entire process of making entry, checking, cancellation of cheques, tallying of signature of cheques, permission for payment and subsequent cash payment to the bearer of the cheques were carried out by responsible officials of the branch and the said Branch failed to protect the interest of the customers and the Bank. Further the finding of the departmental enquiry and recommendation made thereon by the Enquiry Officer, in respect of the fact that the Management representative failed to put forward any defence for Management argument which was also confirmed in the findings of the Enquiry Officer at page -11 of his report wherein it was mentioned that the Management argument of Management representative not received since Management Representative is reported sick and not yet joined. The Association also mentioned that in course of the departmental enquiry the Management Witnesses confirmed that the Branch was practicing use of loose cheques for making payment to customer because of non-updation of system at the Branch; that Sri B.B. Das was neither involved in fraudulent withdrawal nor deposited any money in the accounts of the customers; that the other fraudulent payment at Shillong Branch because of lapse/negligence etc. of the branch official and to which even customer had to lodge FIR; and that the signature did not tally/match with the record though cleared for payment by the official. The Association alleged that from the Enquiry Proceeding it was established that the cheques used for fraudulent payment, never handled by the workman Sri B.B. Das at the Branch and' said B.B. Das had deposited the money in the account of the customers; rather it was the Investigating Officer in his statement, exhibited as management document (MEX -15) and it was confirmed that the money was deposited reportedly by contribution from staff members in order to avoid damaging the reputation of the Bank the amount of Rs. 48,000 was credited to her account reportedly by contribution from staff members. The Association stated that the Management could not establish that the workman Sri B.B. Das taking away 5 leaves of unused cheques and thus using 2 leaves for repaying some loan amount as per practice of using loose cheques by the Bank and he used these loose cheques for withdrawal of money from any customer's account; and the said submission of the workman was also exhibited as Management document (MEX-15 in the Departmental Proceeding), and thus treating the same as his confession is not tenable. It is also added that the workman was dismissed from the service of the Bank by holding Sri B.B. Das as guilty of gross misconduct for doing act prejudicial to the interest of the Bank involving or likely to involve the Bank in monetary loss; and willful damage or attempt to cause damage to the property of the bank. But no other official of the Bank

was ever charged or issued any notice/memo for committing fraud at the Branch maintained conspicuous silence or took lenient view on various acts prejudicial to the interest of the bank and causing loss and inviting damage to the bank by the acts of responsible official of the Bank.

Hence, the Association prayed to direct the Bank to quash the order of dismissal and any other order served on the workman; to pay actual wages, dues and benefits as entitled as regular and permanent employee of the bank; to pay full compensation for the sufferings caused to the workman and his family; and also to allow other relief to which the workman is entitled to; and also to fix responsibility and accountability to the erring officials to stop recurrence of similar lapses.

4. In their Addl. W.S. the Association stated that the Management by taking plea on the honest and voluntary submission of workman for using some loose cheques as per practice of the Branch as confession for fraudulent withdrawal from the Branch deliberately victimized the workman for being in subordinate cadre. The Association categorically denied the contention of the Management made in Para-21, 22, 23, 24, 25, 26 to 34 of the written statement submitted by the Management. The further contention of the Association is that mere admission of the workman for taking 5 leaves of unused cheques and using 2 leaves of unused cheques for his own purpose in no way can be established as fraudulently used in withdrawing money from the customer's account and in the same way the said being the practice at the Branch by other official which was also confirmed by the Investigating Officer that the serious and deliberate lapse on the part of the responsible official of the Branch for allowing fraudulent encashment of cheques from the Branch and without fixing any responsibility and accountability for the erring officials, the actions of the Management in dismissing Sri B.B.Das from the service is irregular and illegal.

5. The Management, on the other hand, contested the proceeding by filing their written statement, stating inter-alia, that the Reference itself is not maintainable in as much as other officers involved in connection with the incident for which the workman Sri B.B.Das has been dismissed were punished, are not workmen within the meaning of Industrial Dispute Act and as such, the Reference is not maintainable and the same is liable to be referred back to the Appropriate Government; and that the issue involved in this Reference is not Industrial Dispute and as such, the Notification dated 9.12.2010 is illegal and hence, this Court can not assume jurisdiction to adjudicate the alleged issue; that the demand of the Association is illegal and untenable in law and as such, the same is not maintainable; that the Association has no locus standi to raise an Industrial Dispute before this

Authority as the issues sought to be raised are not Industrial Disput u/s 2(k) of the I.D. Act since Sri B.B.Das is not a workman within the definition of Section-2(s) of the I.D. Act, 1947; that the Management Bank being a Nationalised Bank having its own policy and procedure and Rules governing the service conditions of their employees and the action taken against the workman was under relevant Provision of Rules governing the service conditions of the employees or the workman of the Bank; that the Association is not a registered Trade Union under the Provisions of Trade Union Act, 1926 and the Association ought to have produced a copy of the Form-A of its application for registration as a Trade Union under Trade Union Act 1926; that the Association ought to have shown the authority of the General Secretary who raise the demand on behalf of the workman along with the Constitution of the Association and the documents to show that the workman is a member of the Association; and as such, the allegation made against the Management Bank are illegal, false, frivolous, fabricated, unjustified, perverse and without any basis of law as well as on fact. Hence, the Management prayed to frame and decide the preliminary issue on maintainability of the claim before the matter is taken up on merit.

Further case of the Management is that the workman B.B. Das was working as Peon-cum-Hamal, PF No. 415789 and he was charged on 02.08.2007 alleging that on 2.8.07 and amount Rs.48,000 and on 7.8.2009 an amount of Rs.52,000 were fraudulently withdrawn from the Savings Bank Account Nos. 5381 & 6329 of Sri Gang Sarma and Smti Sarita Devi respectively while he was working in the Shillong Branch of the Management Bank. Subsequently the workman was charge sheeted for :

- (a) gross misconduct,
 - (i) doing acts prejudicial to the interest of the bank involving monetary loss to the bank.
 - (ii) willful damage or attempt to cause damage to the property of the bank.
- (b) minor misconduct,
 - (iii) breach of rule of business of the bank or instruction for running of any department.

It is mentioned by the Management that after detection of fraudulent act of the workman, he (the workman) credited an amount of Rs.48,000 in the S.B. A/c. No. 5381 on 13.8.2007 and similarly the said workman B.B.Das also credited a sum of Rs.52,000 on 20.8.2007. The Management added that the workman B.B. Das used the unused cheque leaves of closed SB Accounts while doing the above misconduct and the cheque and unused leaves were unauthorisedly taken away by the concerned workman. On receipt of the show cause notice the concerned workman submitted his reply by letter dated 11.10.2007 to the Management Bank to excuse him for the

misconduct committed by him, While the Management was not satisfied with the reply submitted by the workman and issued formal charge sheet on 6.3.08 stating that the concerned workman committed misconduct and disciplinary action will be started against him appointing Sri Amit Banerjee, Manager, HRM, Nodal Regional Office, Kolkata to conduct the enquiry into the charges against the workman. In his written statement submitted before the Management Bank on 5.9.07. the workman admitted his guilt and stated that he owed money to some one which he could not repay in time and he took the responsibility and no other member was involved in the matter for which he had taken away 5 numbers of cheque leaves from the table of Duftary and used 2 number of cheque leaves and threw other 3 cheque leaves in the river, and that he shall never do this type of action in future. However, enquiry was conducted by the Enquiry Officer in strict compliance of principle of Natural Justice and as per Rules giving all opportunities to the concerned workman who in response to the show cause dated 28.9.2007 again by his letter dated 11.10.2007 admitted his guilt for the act of commission of the same by him under the compelling circumstances and request the Management Bank to excuse him for his misconduct.

The Management further stated that the enquiry was conducted by impartial officer who was in no way connected with the Regional Office of the Management Bank at Guwahati and as the workman committed serious misconduct and he harmed the reputation of the Bank, and as he admitted his guilt the admission of guilt need not be proved. The Management forwarded the enquiry report along with the findings of the Enquiry Officer to the workman asking him to submit his representation, if any; and considering the facts and circumstances of the case along with the findings of the Enquiry Officer the workman B.B. Das was dismissed from service on 11.9.2008.

The Management categorically denied the statements made in Para-1 of the Claim Statement that on 7.8.2007 an amount of Rs. 20,000 (Which should have been Rs.52,000) was fraudulently withdrawn from the S.B. Account No. 6329 from the Shillong Branch of the Bank. The Management also denied the contention made in Paras-2, 3, 4, 6, 7, 8 and 9 of the Claim Statement and prayed for dismissing the claim of the Association passing the Award holding that the workman is not entitled to any benefit.

6. The Management side by submitting Addl. Written Statement pleaded that the prayer of the Association made in the claim statement can not be granted by this Tribunal as it would be beyond the scope of the terms of Reference made by the Appropriate Government. It is further submitted by the Management that the punishment of dismissal was imposed upon the workman after holding domestic enquiry in conformity with the Rules and the principle of natural justice; and the

workman duly participated in the said enquiry and defended him through a defence representative of his choice and the workman was also given opportunity to file departmental appeal; and hence, this Tribunal is to first frame and decide the issue regarding the fairness and propriety of the domestic enquiry and the Management may be given opportunity to adduce evidence *u/s* 11 (a) of Industrial Dispute Act in the event of findings of this Tribunal that the domestic enquiry was not fair and proper. The Management again pleaded that the workman admitted his guilt of using 2 leaves (destroyed cheques) in committing the offence because he was in need of money and for that purpose he took 5 leaves of cheque leaves from the table of the Duftary and he destroyed 3 numbers of unused cheque leaves. It is also contended by the Management that the allegation made by workman in Para-2, 3, 4, 5, 6, 7, 8 and 9 of the written statement are not true and correct; and mentioned that the concerned workman was found guilty of the charge and was dismissed from the service after following due process of law by holding departmental enquiry and after giving him reasonable opportunities to defend his case without any violation of natural justice. Hence, the reference is liable to be rejected.

7. In support of their respective pleadings both the parties examined one witness each. They submitted the written argument and also made oral submission on their respective cases at length.

8. From the evidence on record it appears that Sri Subrata Chakrabarty, General Secretary, North Eastern Region Union Bank Employees Association was examined as W.W.1, while the Management examined Mr. B. Bhattacharjee, Senior Manager, Union Bank of India, Regional Office, Chandmari, Guwahati, as M.W.1.

9. The W.W.1 stated that on 2.8.2007 and 7.8.2007 two cases of fraudulent withdrawal of cash amount of Rs.48,000 and Rs.20,000 from the Saving Bank Account No. 5381 and 6329 respectively took place at Shillong Branch of Union Bank of India, wherein the workman Sri B.B.Das was working as one of the Peons-cum-Hamal along with the Branch Manager, 3 numbers of Officers, one Special Assistant, 4 Clerks and 4 numbers of subordinate staff. The said fraudulent acts of withdrawal of money came to the notice of the Branch on 10.08.2007 when the account holder brought the matter to the notice of the Branch Manager. He also said that both the payments were made against presentation of cheques across the counter after issuance of token, verification and authorization exercises carried out by the concerned officers and ultimately the payment handed over to the bearer of the cheque on acknowledgement by the paying official of the Branch. There was neither the presence of the workman Sri B.B. Das nor his involvement could be found or established in the alleged act, but in the process minimum basic precaution of verifying the signature was not taken before authorizing the transaction as both the

cases drawer's signature in cheques differs with that of the signature on the specimen signature card; and in both the cases loose cheques were issued inspite of maintenance of Loose cheques Issue Register wherein no entry of these two cheques was made. It is also mentioned that withdrawal by loose cheques were allowed without production of Pass Book violating norms of the Bank. The W.W.1 alleged that the Management in order to cover up the lapse of the responsible officials of the Bank made the workman who is Under Metric hails from poor family, the scapegoat and obtained an undertaking to establish his involvement in the fraud following the practice of the Branch in using loose cheque even without knowing the cheque numbers etc. for being a Peon while using destroyed cheques in repaying his debt to somebody else which was also confirmed by the Management Witness in his statement as recorded in Page-7 under serial No.2 of the Departmental Proceeding. Accordingly a Departmental enquiry was initiated against the workman by the Management with ulterior motive and a preliminary investigation was done on 4.9.07 at Shillong Branch of the Bank. The W.W. 1 contended that in the face of the strong opposition made by the workman in the departmental enquiry with submission and evidences for harassing the workman with a view to cover up the lapse of responsible officials of the Branch the Management representative failed to put forward any argument to establish the case of the Management to victimize the workman, which can be confirmed from the findings of the departmental enquiry. Subsequently the workman was dismissed from service of the Bank. In order to cover up the lapse and negligence as well as the direct involvement of the responsible officers of the Bank in committing repeated fraud at the Branch the Management did neither cautioned nor issued any memorandum or punishment against any of the official of the Branch who was involved in the entire exercise of the commission of the alleged fraud inspite of the report of the preliminary investigation. The W.W. 1 again mentioned that the Management document marked as MEX-18 (departmental enquiry) which confirmed that the money was deposited reportedly by contribution from staff member in order to avoid damaging the reputation of the Bank. The Deputy General Manager (IR), Regional Office vide his letter dt. 24.8.09 informed the Asstt. General Manager, Industrial Relation Division, HRM Department, C.O. Mumbai, the Head Office of the Bank that the Bank had not suffered any monetary loss on account of the misconduct in the Branch. The workman alleged that the Management having vested power of taking disciplinary action carried out the same against the workman who is a lowest graded employee, with malafide intention and out exceeding the jurisdiction without bringing any charge against the officials who are the custodian of people's money for working in the Bank for extraneous consideration. The poor workman Sri B.B. Das was dismissed from the service. Hence, the W.W. 1 prayed for

quashing the order of dismissal and any other order served upon the workman; to pay actual wages, due and benefit as entitled as regular and permanent employee of the Bank and to regularize the service of the workman; to pay full compensation for the suffering of the workman and his family; to fix responsibility and accountability to the erring officials to stop recurrence of similar lapse and any other relief to which the workman is entitled to under law and equity. The workman witness has proved the findings of the Enquiry Officer in connection with the Departmental Enquiry against the workman vide Exhibit-1 and the proceeding of the said Departmental enquiry vide Exhibit-2. He also proved the statement of the workman vide Exhibit-3 and the preliminary report of the Management in connection with the Departmental Proceeding against the workman vide Exhibit-4.

10. In course of his cross-examination the workman witness No.1 has admitted the documents marked as Exhibit-A which is a Show Cause Memo dated 28.9.07, issued by the Management against Sri Souvik Dutta, Assistant Manager, Shillong Branch, in connection with fraudulent withdrawal of the workman from Shillong Branch. Exhibit-B is the reply to the show cause dated 28.9.07 submitted by the said Souvik Dutta, Asstt. Manager; Exhibit-C is the order imposing punishment against Souvik Dutta issued by the Disciplinary Authority vide their Memo dated 7.10.08; Exhibit-D show cause Memo dated 28.9.07 issued by the Management upon Sri M.A. Dhakar, Manager, Shillong Branch; Exhibit-E the reply of M.A. Dhakar, Manager, Shillong Branch against the Memo of Show Cause (vide Exhibit-D); Exhibit-F. the Memo issued to the workman and the Exhibit-G is the reply of the workman on the memo of show cause dated 28.9.07 wherein it has been written by the workman that he sincerely regretted for the acts of omission and commission under some compelling circumstances; Exhibit-H is the charge sheet issued against the workman; Exhibit- I the order dated 19.8.08 imposing final punishment issued by the Disciplinary Authority upon the workman after allowing him personal hearing; Exhibit-J is the confessional statement made by the workman; and Exhibit-K is the proceedings of the Departmental Proceeding against the workman. The workman witness No.1 denied the suggestion tendered by the Management that the workman had committed the acts which is prejudicial to the interest of the Bank involving or likely to involve the Bank in monetary loss and willful damage or attempt to cause damage to the property of the Bank; and thereby violated the Rules of all the Banks or instruction for running any department.

11. The Management Witness No.1, on the other hand, stated that he knows the workman Sri B.B. Das as Peon-cum-Hamal who was charge sheeted on 6.3.08 due to the fact that he had fraudulently withdrawn a sum of Rs. 48,000 from the S.B.Account No. 5381 of Sri Ganga

Sharma using loose cheque No.099479 while he was working at Shillong Branch of the Management; and another sum of Rs.52,000 was also fraudulently withdrawn by the workman from the S.B.Account No.6329 of Smt. Sarita Devi. Thereafter the workman was charge sheeted as mentioned above.

He also stated that on receipt of the said charge sheet the workman submitted his reply on 11.10.07 vide Exhibit-G admitting his guilt and requested the Management to pardon him; and also the workman voluntarily made his statement on 5.9.07, admitting his guilt vide Exhibit- J, wherein Exhibit-J(1) is his signature. The M.W.1 added that a Departmental Enquiry was held against the workman and all reasonable opportunities were afforded to the workman. Accordingly the Enquiry Officer on completion of enquiry submitted enquiry proceeding vide Exhibit-K along with its report and findings vide Exhibit-L. The workman was also supplied with the findings of the Enquiry Officer allowing him an opportunity to submit his representation and the workman was also heard in person on 3.9.11 vide Exhibit -I. Finally the workman was dismissed from service vide Exhibit -M. He also stated that before issuing the charge sheet a memorandum was issued against the workman vide Exhibit-F. The M.W.1 further said that the workman credited an amount of Rs.48,000 in the S.B. Account No. 5381 and on 13.8.07 and another amount of Rs.52,000 in the S.B.Account No. 6329 on 20.8.2007. He has proved the documents namely show cause memo dated 28.9.2007 vide Exhibit-A issued by the Management against Sri Souvik Dutta: Exhibit- B, reply to show cause memo dated 28.9.07 submitted by Sri Souvik Dutta: Exhibit-C the order imposing punishment against the Souvik Dutta by the Disciplinary authority vide Memo dated 7.10.2008; Exhibit-D the show cause memo dated 28.9.07 issued by the Management upon Sri M.A. Dakhar, Manager, Shillong Branch; Exhibit-E the reply of Sri M.A.Dakhar, Manager, Shillong Branch; Exhibit-F the memo issued to the workman B.B. Das.

12. In his cross-examination MW.1 stated that at the time of encashing the cheque the bearer cheque is suppose to put his signature on the back side of the cheque, and in banking business when a cheque is presented for encashment the account is required to be debited, verification of the signature of the cheque holder is to be done, and ultimately it is produced before the cash counter for payment; and in observing the above processes debit of account and verification of signature are to be done by the responsible officer and payment of cash is made by the cash Clerk/Cashier. He also said that Mr. KC.Bhuiya, Senior Manager, HRM, Regional Office, Guwahati has given his observation in his preliminary investigating report held on 4.9.07 and that the workman made a confession statement vide Exhibit-3 wherein the cheque numbers has not been mentioned. It is further stated that the Enquiry Officer mentioned in the findings

of the Departmental Enquiry (Exhibit-1, at page-11) that the Management representative is reported sick and not yet joined; and that in Exhibit-2 at page No.1, the workman replied in negative on the question asked by the Enquiry Officer that whether the workman plead guilty of the charge/allegation levelled against him. In course of his cross-examination the Management Witness No.1 also stated that there is no mention the name of the workman nor any allegation of involvement of the workman appears to have been made in Exhibit-A, B, D, & E. The Management witness No.1 categorically denied the suggestion tendered by the Union that there is no involvement of the workman in the fraudulent encashment of the cheque from the Branch and that the workman was punished in order to cover up the lapse of the Management, and that the Departmental Proceeding was held not as per the Provision of law and the workman was punished illegally.

13. The Tribunal, in this Reference, is to decide first the vital issue i.e. whether the action of the Bank Management in terminating the service of the workman without consideration the involvement of other responsible officers of the Bank Management for fraudulent withdrawal of money from customers account is justified? The fact, as it reveal from the pleadings as well as from the evidence available on record, shows that the workman while discharging the duties of Peon-cum-Hamal in the Shillong Branch of Union Bank of India alleged to have withdrawn fraudulently the amounts of Rs. 48,000 and Rs. 52,000 from the Account No.5381 & 6329 on 2.8.07 and 7.8.07 belong to Sri Gautam Sarma and Sarita Devi respectively using 2 unutilised/destroyed cheques.

14. During the course of argument Mr. S. Chakrabarty, General Secretary, North Eastern Region Union Bank of India Employees Association, the learned counsel for the workman pointed out that at the time of alleged occurrence of fraudulent withdrawal of amount from the Bank the other officers and Cashier were involved in the alleged transaction; and as the Management, in order to cover up their own lapses and to protect the reputation of the Bank, they have victimized the workman without taking any step against the officer concerned who were involved in this transaction. It is also pointed out by the learned counsel for the workman that the then Assistant Manager, S. Dutta, verified the signature on the alleged cheques and authorized the payment in respect of the alleged fraudulent withdrawal and Sri M.A.Dakhar, the then Manager, of Union Bank of India, Shillong Branch also failed to take proper care to destroy the unused cheque leaves deposited by the account holders and thereby created opportunity to misutilise the said cheques which amounts to failure to discharge his duty with utmost devotion and due diligence and failed to adhere the norms but no action taken against said Mr. Souvik Dutta and Mr. M.A.Dakhar while the workman B.B.Das being a poor lowest grade employee has been made victim of this entire

episode with a view to protect the popularity of the Bank as well as to protect the bank officers and as such, the action of the Management in not taking the proper action against the aforesaid two responsible officers is not proper and legal and by victimizing i.e. imposing punishment of dismissal against the workman is an act of violation of law, as well as Natural Justice.

15. Mr. B.Bhattacharjee, Senior Manager, Union Bank of India, Regional Office, Guwahati, on the other hand, submitted that the officers concerned namely Sri Souvik Dutta and Mr. M.A.Dakhar have committed some lapses and negligence in regard to due discharge on their duties and accordingly appropriate action have been taken against the said 2 officers by the Management and as the amounts misappropriated by the workman has already been deposited by the workman in the Management Bank subsequently after detection of the alleged fraudulent withdrawal; by imposing minor penalty of reduction by one stage in the time Pay of Scale for a period of one year without cumulative effect against Sri S.Dutta and the Manager, Mr. M.A. Dakhar was also punished by stopping one increment. Mr. B.Bhattacharjee further stated that the workman being an employee of the Management Bank, with malafide intention collected the unused cheque leaves from the Table of the Duftry and secretly arranged to withdraw the amount with ulterior motive which he did in the event of his need for money as mentioned in the admission of the workman. He also submitted that there is no lapse or lacuna as well as no violation of right and Natural Justice committed in course of enquiry proceeding which was ended with due care and caution as per provision of law and after giving sufficient opportunity to hear the workman the Disciplinary Authority delivered its finding along with the proceeding of the enquiry vide Exhibit-1 and Exhibit-2 respectively. Subsequently the Disciplinary Authority imposed punishment vide Exhibit-I. As such, the Management has rightly imposed the punishment of dismissal against the workman. In support of his contention Mr. Bhattacharjee cited the decision of the Hon'ble Supreme Court in Additional District Magistrate (City) Agra .. Vrs... Prabhakar Chaturvedi and another, reported in (1996) 2 SCC 12, wherein it was held an amount of Rs.21,000/- temporarily misappropriated for couple of month, in such a case punishment held not grossly disproportionate to the nature of misconduct proved against the Respondent. He also cited the decision laid down in Municipal Committee, Bahadurgarh ...Vrs...Krishnan Behari and Ors. reported in (1996) 2 SCC 714 that in case involving corruption there can not be any other punishment than dismissal, any sympathy shown in such cases is totally uncalled for and opposed to public interest; and the amount misappropriated may be small or large it is the act of misappropriation that is relevant. Mr. Bhattacharjee also relied upon the case of Central Bank of

India Ltd Vrs... Karunamoy Banerjee, AIR 1968 SC 266 wherein it was observed that :

“We must, however, emphasize that the rules of natural justice, as laid down by this Court, will have to be observed, in the conduct of a domestic enquiry against a workman. If the allegations are denied by the workman, it is needless to state that the burden of proving the truth of those allegations will be on the management; and the witnesses called, by the management, must be allowed to be cross-examined, by the workman, and the latter must also be given an opportunity to examine himself and adduce any other evidence that he might choose, in support of his plea. But, if the workman admits his guilt, to insist upon the management to let in evidence about the allegations, will, in our opinion, only be an empty formality. In such a case, it will be open to the management to examine the workman himself, even in the first instance, so as to enable him to offer any explanation for his conduct, or to place before the management any circumstances which will go to mitigate the gravity of the offence. But, even then, the examination of the workman, under such circumstances, should not savour of an inquisition. If, after the examination of the workman, the management chooses to examine any witnesses, the workman must be given a reasonable opportunity to cross-examine those witnesses and also to adduce any other evidence that he may choose”.

16. From the evidence of the W.W.1 and the MW.1 together with the documents proved by both the sides it appears that the workman Sri B.B. Das was working as Peon-cum-Hamal, Union Bank of India, Shillong Branch on 2.8.07 and 7.8.07 and on those two days 2 cases of fraudulent withdrawal of cash from Saving Bank Account No. 5381 and 6329 amounting to Rs. 48,000 and Rs.20,000 respectively was done and a memorandum was issued against the workman vide Exhibit-F mentioning the allegations of fraudulent withdrawal of the amounts from the Management Bank and in reply to the said memorandum the workman admitted his guilt stating that he was sincerely regretted for the act of omission and commission under some compelling circumstances and that he was never involved in such act at any time in his service career and hence prayed for excusing him vide Exhibit-G which is admitted by the workman in course of his cross-examination & even in his claim statement (para-7) the workman mentioned that the honest submission of the workman for taking away five leaves of unused cheques & thus using two leaves for repaying some loan amount, as per practice of using loose cheques by the bank, in no way established the fraudulent withdrawal of money. On being dis-satisfied with his reply dated 11.10.2007 charge sheet was issued against the workman vide Exhibit-H and accordingly Departmental Enquiry was conducted; and on completion of the enquiry the Enquiry Officer submitted his report and the Disciplinary Authority

vide his order dated 19.8.08 (Exhibit-I) issued the memo dated 19.8.08 the final order on the enquiry imposing punishment by the Disciplinary Authority upon the workman. In course of his cross-examination the workman witness No.1 also admitted the reply of the workman to the memo of show cause dated 28.9.07 which was marked as Exhibit-G. the statement made by the workman before the Branch Manager, Union Bank of India, Shillong Branch on 5.9.07 admitting the guilt of the workman regarding fraudulent withdrawal of the money using 2 destroyed cheques vide Exhibit-J (which was proved without any objection).

Mr. B.Bhattacharjee, Manager, Regional Office, Union Bank of India, Chandmari, Guwahati, learned counsel for the Management submitted that the workman voluntarily confessed his guilt and as such, the charge levelled against the workman in respect of fraudulent withdrawal of money by using unutilized cheques need not be proved and hence, the punishment imposed by the Management is justified and legal. However, this contention of the learned counsel for the Management vehemently objected by Mr. S.Chakrabarty, General Secretary, NERUBEA stating that the workman was compelled to make such statement admitting his guilt marked as Exhibit-G & J under pressure, duress and compulsion and the workman was dismissed illegally.

17. On careful scrutiny of all the documents relating to the Departmental Enquiry conducted by the Department, it appears that initially preliminary investigation was done on 4.9.07 by Mr. KC.Bhuiyan, Senior Manager, HRM Department, Regional Office, Guwahati against the workman Sri B.B.Das in connection with fraudulent withdrawal of Rs.48,000/- and Rs.52,000/- from the S.B.Account No. 5881 and S.B. Account No. 6329 of Ganga Sarma & Smti Sarita Devi respectively, from the Union Bank of India, Shillong Branch and the report of the said enquiry proved as Exhibit-4 shows that the workman B.B. Das confessed is guilt before the Enquiry Officer. Prior to holding of the enquiry a local enquiry was made and it was found that Sri B.B. Das made deposits in few Banks on the next day of committing the fraud and on this clue Sri B.B. Das was questioned by the Bank official while he admitted that he committed the fraud; and on the following day i.e. on 5.9.07 the workman B.B.Das submitted his statement admitting his guilt (Exhibit-B) before the Union Bank of India, Shillong Branch. Ultimately, the Departmental Proceeding was started against the workman, which was conducted by Mr. Amit Kr. Banerjee, the Enquiry Officer. From the proceeding of the enquiry as well as the findings of the Departmental enquiry, it appears that the workman on receipt of the show cause memorandum dated 28.9.2007 (Exhibit-F) submitted his explanation dated 11.10.2007 (Exhibit-G) admitting his guilt and the said documents marked as Exhibit-G was proved by the management Witness No. 1, Mr. Tajul Islam, the

then Assistant General Manager, Shillong Branch and said Tajul Islam categorically mentioned that the amount involving the fraudulent withdrawal was reccredited by Sri B.B. Das, the workman and in course of his cross examination also he confirmed that the workman has deposited the amounts based on his admission marked as MEX-14 & 15. The copy of letters dated 11.10.07 and 5.9.07 of Sri B.B. Das (marked as Exhibit-15 and Exhibit-G respectively). In the said Departmental Enquiry Management witness No. 2 in his examination-in-chief stated that as per the report of the Senior Manager the workman has deposited the money and he confirmed that the confession (admission) made by the workman was voluntary and the same was not given under pressure, coercion or under intoxication and this statement was not rebutted by the workman side. It is also found that the workman was given opportunity for his defence submission and on closure of the enquiry, the Enquiry Officer, submitted his findings (Exhibit-L) before the Disciplinary Authority holding the workman B.B. Das guilty of the following misconduct :

Gross Misconduct.

- (i) Doing act prejudicial to the interest of the Bank involving or likely to involve the Bank in monetary loss,
- (ii) Willful damage or attempt to cause damage to the property of the Bank.

Minor Misconduct,

- (iii) Breach of the Rule of the business of the Bank or instruction for running of any Department.

Thereafter the Disciplinary Authority vide Exhibit- I proposed punishment and before imposing punishment the workman B.B. Das was given an opportunity of personal hearing but the workman B.B. Das did not appear and made submission against the proposed punishment nor has brought out any new fact or evidence on record so as to move to reconsider the proposed punishment. Thereafter the Disciplinary Authority imposed punishment as it appears from the Exhibit-M. As such, there is no iota of evidence to show that the admission of the guilt by the workman made (vide Exhibits-G & J) under pressure, duress and compulsion. Thus, it is crystal clear that there is no irregularity or illegality nor any violation of natural justice committed by the Management in course of the Disciplinary Proceeding as well as imposing punishment against the workman. As such I find no force in the argument of Mr. S.Chakrabarty, learned counsel for the workman.

18. In view of my discussion and findings as above and having regard to the evidence and pleadings adduced by both the sides together with the decisions of the Apex Court, it can safely be held that the workman B.B.Das committed the offence on 2.8.07 and 7.8.07 while he was serving as Peon-cum-Hamal in the Union Bank of India,

Shillong Branch by fraudulent withdrawal of money from the Management Bank using unused cheques which was detected in the concerned Branch on 10.8.2007 and the said amount was subsequently deposited by the workman after detection of the act of fraudulent withdrawal of money; and it is also found well established that the Officer-In-Charges namely, Souvik Dutta, Assistant Manager, and Mr. M.A. Dakhar, Manager, Union Bank of India, Shillong Branch were also punished due to their negligence and lapse in due discharge of their duties in relation to the fraudulent withdrawal of the money by the workman.

19. In the result, I am constrained to opine that the action of the Management of the Union Bank of India in terminating the service of Sri B.B. Das, workman without considering the involvement of the other responsible officers of the Bank Management for fraudulent withdrawal of money from customers accounts is justified and hence, the workman is not entitled to any relief. Accordingly this Reference is disposed of without granting any relief to the workman.

Send the Award to Government immediately as per procedure.

Given under my hand and seal of this Court on this 24th day of July, 2013.

L. C. DEY, Presiding Officer

नई दिल्ली, 6 अगस्त, 2013

का.आ. 1852.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सैन्ट्रल बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 103/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-4-2013 को प्राप्त हुआ था।

[सं. एल-39025/1/2010-आईआर (बी-II)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 6th August, 2013

S.O. 1852.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 103/2011) of the Central Government Industrial Tribunal/Labour Court, Kanpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workmen, which was received by the Central Government on 26-4-2013.

[No. L- 39025/1/2010-IR (B-II)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE SRI RAM PRAKASH, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

Industrial Dispute No. 103/2011

Kaushal Kumar Singh,
Son of Sri Ashok Kumar Singh,
Resident of 38/24,
Prayag Narain Shivala,
Behind Gupta Own Wala,
Kanpur

AND

The Zonal Manager,
Central Bank of India,
23, Vidhan Sabha Marg,
Lucknow and Others

AWARD

1. Brief facts are—

2. A claim petition has been filed by claimant under sub-section (1) of Section 2-A of the Industrial Disputes Act, 1947, claiming that his removal from service by the opposite party from 29.6.93 be declared as illegal and unjustified and he should be reinstated in the service of the bank with consequential benefits.

3. The claim of the workman has been challenged by filing a written reply as well as by moving a separate application paper no. 9/1 along with affidavit alleging that the claim of the workman is not maintainable legally or factually.

4. It is contended by the opposite party that the claimant has raised the dispute several times before the ALC(C) but his prayer was not accepted. Vide paper no. 8/6 dated 19.1.95, his case was not found suitable by Government of India for sending a reference, and thereafter the workman has also filed a writ petition raising the same aversions. This writ petition was decided against the workman vide order dated 25.1.2005. The copy of the said order is paper no. 9/27. The workman again raised the dispute before the conciliation officer, the workman remained absent on several dates before the conciliation officer thereby the conciliation officer closed the dispute vide order dated 17.10.2011, vide paper no. 9/23.

5. Thereafter, the claimant filed this claim statement on 14.12.2011.

6. It is contended by the AR of the opposite party that under sub-section (3) of Section 2-A of the Act the present dispute is not maintainable as the same has not been filed within 3 years from the date of his removal.

7. I would like to reproduce the provisions of sub-section (3) of Section 2-A of the Act as amended.

8. The application referred to in sub-section 2 shall be made to the Labour Court or Tribunal before expiry of three years from the date of discharge, dismissal and retrenchment or otherwise, termination of service as specified in sub-section (1).

9. The provisions are very clear. Termination is dated 29.6.1993. Therefore, filing of claim statement challenging the termination of the services of the applicant cannot be maintainable.

10. Ruling filed by the workman 1999 (82) FLR 137 Supreme Court in between Ajayabd Singh and Sirhand Co-operative Marketing-cum-Processing Service Society Limited is not applicable considering the facts of the present case.

11. Here in the present case the statute has laid down limitation which is mandatory.

12. Therefore, considering all the facts that the Government did not find the case suitable for the reference. Secondly he raised the dispute before the Hon'ble High Court and considering the facts the Hon'ble High Court decided the case vide order dated 25.1.2005, thirdly he did not take interest before the conciliation officer due to his absence and lastly under sub-section (3) of Section 2-A of the Act, the present claim of the applicant is not maintainable.

13. Therefore, the claimant is not entitled to any relief as claimed by him in his claim petition.

Dated : 13-3-2013

RAM PARKASH, Presiding Officer